

STATE OF SOUTH CAROLINA)
) DEVELOPMENT AGREEMENT
COUNTY OF YORK)

This Development Agreement (“Agreement”) is made and entered this _____ day of _____ 2016, by and between Kanawha Land, LLC, a North Carolina limited liability company (“Developer”), and the governmental authority of the Town of Fort Mill, South Carolina (“Fort Mill” or “Town”).

WHEREAS, the legislature of the State of South Carolina has enacted the “South Carolina Local Government Development Agreement Act” (the “Act”), as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended; and

WHEREAS, Section 6-31-10(B)(1) of the Act recognizes that “[t]he lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning”; and

WHEREAS, Section 6-31-10(B)(6) of the Act also states that “[d]evelopment agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project. Development agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State”; and,

WHEREAS, the Act further authorizes local governments, including municipal governments, to enter into development agreements with developers to accomplish these and other goals as set forth in Section 6-31-10 of the Act; and,

WHEREAS, the Town seeks to protect and preserve the natural environment and to secure for its citizens quality, well planned and designed development and a stable and viable tax base; and

WHEREAS, Kanawha Farms, LLC, a North Carolina limited liability company, is the legal owner of the Property hereinafter defined and has given permission to Kanawha Land, LLC, the equitable owner of the Property, to enter into this Agreement with the Town; and

WHEREAS, the Town finds that the program of development for this Property (as hereinafter defined) proposed by Developer over the next ten (10) years or as extended as provided herein is consistent with the Town's comprehensive land use plan and will further the health, safety, welfare and economic wellbeing of the Town and its residents; and

WHEREAS, the development of the Property and the program for its development presents an opportunity for the Town to secure quality planning and growth, protection of the environment, and to strengthen and revitalize the Town's tax base; and

WHEREAS, this Agreement is being made and entered into between Developer and the Town, under the terms of the Act, for the purpose of providing assurances to Developer that it may proceed with its development plan under the terms hereof, consistent with its approved Concept Plan (as hereinafter defined) without encountering future changes in law which would materially affect the Developer's ability to develop the Property under its Concept Plan, and for the purpose of providing important protection to the natural environment and long term financial stability and a viable tax base to the Town;

NOW THEREFORE, in consideration of the terms and conditions set forth herein, and other good and valuable consideration, including the potential economic benefits to both Fort Mill and Developer by entering this Agreement, and to encourage well planned development by Developer, the receipt and sufficiency of such consideration being hereby acknowledged, Fort Mill and Developer hereby agree as follows:

1. INCORPORATION.

The above recitals are hereby incorporated into this Agreement, together with the South Carolina General Assembly findings as set forth under Section 6-31-10(B) of the Act.

2. DEFINITIONS.

As used herein, the following terms mean:

“Act” means the South Carolina Local Government Development Agreement Act, as codified in Sections 6-31-10 through 6-31-160 of the Code of Laws of South Carolina (1976), as amended; attached hereto as Exhibit A.

“Age-Restricted Unit” means any residential housing unit, whether detached or attached, for sale or for rent, where at least one member of the household must be at least 55 years of age or older. Qualified units must be located within a community or facility (or portion thereof) which publishes and adheres to policies and procedures that demonstrate an intent to provide housing for those aged 55 and older, and the housing facility or community complies with the rules issued by the Secretary of the U.S. Department of Housing and Urban Development for verification of occupancy.

“Age-Targeted Unit” means any residential housing unit, whether detached or attached, for sale or for rent, which is designed for occupancy by individuals who are 55 years of age or older, but for which occupancy is not restricted based on age. For the purpose of this paragraph, an age-targeted unit shall satisfy at least two (2) of the following criteria if it is a single-family unit but three (3) of the following criteria if it is a multi-family unit:

- 1) The unit shall contain no more than 2,000 square feet of gross livable area if it is a multi-family unit; no more than 2,500 square feet of gross livable area if it is single-family unit; and no more than four (4) bedrooms, whether single-family or multi-family;
- 2) The master bedroom, kitchen, main living area, laundry, and at least one full bathroom shall be located on the ground floor if a single-family unit, or must be accessible without the use of stairs if located within a multi-family facility;
- 3) Exterior maintenance shall be included in the owner or occupant’s monthly or annual homeowner association fees, or monthly lease fees; and
- 4) The unit shall be equipped with features designed to improve accessibility for older adults, including, but not limited to: handicap accessible doorways, grab bars, curbless showers, raised counters, panic buttons, etc.

“Code of Ordinances” means the Code of Ordinances for the Town in effect as of the date hereof, a complete copy of which is on file with the Developer’s office.

“Concept Plan” means that certain document titled “Concept Plan for Kanawha Land LLC” prepared by The Dodd Studio, LLC, dated April 21, 2016, approved by the Town on June 27, 2016, incidental to the Town’s zoning of the Property to “MXU” (Exhibit B hereto), as it may be amended from time to time pursuant to this Agreement.

“Developer” Kanawha Land, LLC, a North Carolina limited liability company, all of its permitted assignees, and all successors in title or lessees who undertake development of the Property as a Developer or who are transferred Development Rights and Obligations.

“Development Rights and Obligations” means the rights, obligations, benefits and approvals of the Developer(s) under this Agreement.

“Major Modification” means a change to the Agreement wherein the change is one that requires public notice, hearing and an approving ordinance of Town Council before the modification can be effected, pursuant to S.C. Code Ann. 6-31-60. The parties agree that for purposes of this Agreement, the following are deemed to be Major Modifications:

- 1) Increase of the approved intensity of use of the Property in the aggregate;
- 2) Change in permitted uses;
- 3) Decrease in public or private open space or on-site amenities less than that required in the Zoning Ordinance;
- 4) Increase in the number of approved residential dwelling units;
- 5) Adding property to the Property covered at any one time by this Agreement; except, however, that adding any adjacent parcels to the Property shall be given special consideration and approved by the Town by resolution of Town Council without the need for a public hearing, provided such proposed additions are similarly zoned to the Property, and provided the proposed development plan for such additions is consistent with the intensity, permitted uses and densities allowed within the Property;
- 6) Removing all of part of the Property from the Agreement; and
- 7) With respect to areas shown as parkland on the Concept Plan (all areas marked with a “P”), each of the following shall be deemed a Major Modification: the transfer of development density to such areas, any proposed ground disturbing or vertical construction activities therein, or any other activity which would lessen the value thereof for recreational or open space purposes.

The parties agree that, in addition to the foregoing enumerated items, there may be additional actions or events which may constitute Major Modifications under the Act, irrespective of omission from the foregoing. Such an action or event, if reasonably determined by the Town to constitute a Major Modification pursuant to the requirements of the Act, shall also be subject to the procedural requirements stated above.

“Minor Modifications” means changes to this Agreement which do not require public notice and hearing prior to implementation but which do require administrative approval. The parties otherwise agree that a Minor Modification is one which does not change the beneficial use of the Property. Authority to approve changes other than Major Modifications shall be granted to the Town Planning Director. The Planning Director shall have the duty to determine whether any specific change is a Major Modification, provided that the Developer shall have the right to have any request for change processed as a Major Modification, notwithstanding the provisions hereof.

“Owners Association” means a legal entity formed by Developer pursuant to South Carolina statutes which is responsible for the enforcement of neighborhood restrictions and covenants, and for the maintenance and upkeep of any common areas and/or community infrastructure developed under this Agreement, but not accepted by the Town for perpetual ownership and maintenance, to include but not be limited to: private roads and alleyways, common areas, neighborhood parks and recreational facilities, and storm water management systems.

“Project” means the mixed-use development project envisioned by the Concept Plan and approved by the Town pursuant to this Agreement, as it may be amended from time to time pursuant to this Agreement.

“Property” means those tracts of land described on Exhibit D.

“Term” means the duration of this Agreement as set forth in Section III hereof.

“Zoning Ordinance” means the Zoning Ordinance for the Town in effect as of the date hereof, a complete copy of which is on file with the Developer’s office.

3. TERM.

The Developer represents and warrants that the Property consists of a total of not less than 250 acres and not more than 1,000 acres of “highland” within the meaning given that term by the Act. The term of this Agreement shall commence on the date on which this Agreement is executed by the Town and the Developer and shall terminate upon completion of development of the Property or ten (10) years from the date of execution, whichever event first occurs. It is expected that the Project will take up to twenty (20) years to complete. In order to fully realize the benefits accruing to Town and Developer recited in this Agreement, if the Developer is not in default (after being provided with notice and opportunity to cure as set forth below) of this Agreement at the conclusion of the initial ten-year term, the termination date of this Agreement shall be extended by written approval of both the Town and the Developer for an additional five-year term. The Town and Developer shall by written approval further extend the term for an additional five-year term so long as the Developer is not in default at the conclusion of the initial extended five-year term. Notwithstanding the terms and provisions in this Section or elsewhere in this Agreement to the contrary, if a court of competent jurisdiction hereafter determines that the length of the Term, or the provision for extension of the Term set forth above, exceeds the maximum term allowed under the Act and if all applicable judicial appeal periods have expired without such determination being overturned, then the Term of this Agreement relative to all or specific affected portions of the Property shall be reduced to the maximum permissible term under the Act.

4. DEVELOPMENT OF THE PROPERTY.

The Property shall be developed in accordance with this Agreement, the Zoning Ordinance, and in particular the MXU zoning classification provisions thereof, the Code of Ordinances, and other applicable land development regulations required by the Town (except as may be superseded by this Agreement), State, and/or Federal Government. The Town shall, throughout the Term, maintain or cause to be maintained a procedure for the processing of reviews as contemplated by the Zoning Ordinance and Code of Ordinances. The Town shall review applications for development approval based on the development standards adopted as a part of the Zoning Ordinance and Code of Ordinances, unless such standards are superseded by the terms of this Agreement, in which case the terms of this Agreement shall govern.

5. CONVEYANCES OF PROPERTY AND ASSIGNMENT OF DEVELOPMENT RIGHTS AND OBLIGATIONS.

The Town agrees with Developer, for itself and its successors and assigns, including successor Developer(s), as follows:

A. Conveyance of Property. In accordance with the Act, the burdens of this Agreement shall be binding on, and the benefits of this Agreement shall inure to, all successors in interest and assigns of all parties hereto, except for the owners of Excluded Property (as defined in this Agreement). Except in the case of sales of Excluded Property, in the event any Developer shall convey any parcel of the Property or portion thereof, the Developer shall, within fourteen (14) days following such conveyance, deliver to the Town a written acknowledgement of the party to whom such parcel or portion thereof was conveyed whereby such party accepts the assignment of and assumes the rights and obligations of the Developer hereunder with respect to such conveyed parcel or portion thereof. Such acknowledgement shall include the identity and address of the acquiring party, a proper contact person, the location and number of acres of the Property transferred, and the assigned residential and commercial density, as applicable, subject to the transfer. Following delivery of such documents, Developer shall be released of any liability or obligation with respect to said transferred portion(s) of the Property. Such transferee shall, as of the effective date of such conveyance, be deemed a Developer under this Agreement relative to the portion of the Property acquired by such party, except in the case of the transferee(s) of the four acres of the Property to be transferred as contemplated under Section 5.B below who shall not be considered Developer(s) although their transferred four acres shall otherwise remain subject to the terms of this Agreement. For the purposes of this Agreement, "Excluded Property" means property that is conveyed by the Developer to a third party and is: (i) a single-family residential lot for which a certificate of occupancy has been issued; (ii) a multi-family lot or parcel for which certificates of occupancy have been issued and on which no additional residential structures can be built under local ordinances governing land development; (iii) any other type of lot for which a certificate of occupancy has been issued and which cannot be further subdivided into one or more unimproved lots or parcels under local ordinances governing land development; or (iv) a single-family residential lot which has been subdivided and platted and is not capable of further subdivision without the granting of a

variance, so long as the owner of such lot does not own more than ten (10) lots within the Property. Excluded Property shall at all times be subject to zoning ordinances, land use ordinances and other ordinances of the Town, including those incorporated in this Agreement. The conveyance by a Developer of Excluded Property shall not excuse that Developer from its obligation to provide infrastructure improvements within such Excluded Property in accordance with this Agreement.

B. Assignment of Development Rights and Obligations. It is the express intent of Developer, and the understanding and acknowledgement of Town, that Developer will assign, without recourse, all Development Rights and Obligations to successor Developer(s). The Developer shall be entitled to assign and delegate the Development Rights and Obligations to a subsequent purchaser of all or any portion of the Property without the consent of the Town, provided that the Developer complies with the above notice provisions. The Town understands that any such assignment or transfer by the Developer of the Development Rights and Obligations shall be non-recourse as to the assigning Developer. Upon the assignment or transfer by Developer of the Development Rights and Obligations, then the assigning Developer shall not have any responsibility or liability under this Agreement. For purposes of this Section 5, the following activities on the part of Developer shall not be deemed “development of the Property”: (i) the filing of this Agreement and Concept Plan and the petitioning for or consenting to any amendment of this Agreement or the MXU zoning of the Property; (ii) the subdivision and conveyance of any portions of the Property to the Town of Fort Mill as contemplated under this Agreement; (iii) the subdivision and conveyance of the portion of the Property designated as “Open Space” on the Concept Plan to any person or entity so long as the same shall be restricted in use to “open space”; (iv) the subdivision and conveyance of portions of the Property, not to exceed in the aggregate four (4) acres, more or less, provided that such conveyances shall be deed-restricted to single-family residential use; (v) the conveyance of easements and portions of the Property for public utility purposes; (vi) the conveyance of portions of the Property to public entities in the case of any road realignments or grants of road rights of way; (vii) the marketing of the Property as contemplated under this Agreement; and (viii) any other activity which would not be deemed “development” under the Act.

A subsequent Developer transferring Development Rights and Obligations to any other party shall be subject to this requirement of notification, and any entity acquiring Development

Rights and Obligations hereunder shall be required to file with the Town an acknowledgment of this Agreement and a commitment to be bound by it, as set forth in Section 5.A. above.

6. DEVELOPMENT SCHEDULE.

The Property shall be developed in accordance with the development schedule, attached as Exhibit E (the “Development Schedule”). Developer shall keep the Town informed of its progress with respect to the Development Schedule by providing written annual reports with respect thereto, including notice of upcoming need for water and sewer service. Pursuant to the Act, the failure of the Developer to meet the development schedule shall not, in and of itself, constitute a material breach of this Agreement. In such event, the failure to meet the development schedule shall be judged by the totality of circumstances, including but not limited to any change in economic conditions or the Developer’s good faith efforts made to attain compliance with the development schedule. As further provided in the Act, if the Developer requests a modification of the dates set forth in the development agreement and is able to demonstrate that there is good cause to modify those dates, those dates must be modified by the Town. A Major Modification of the Agreement may occur only as provided in the Act and this Agreement.

7. USES AND DENSITY.

Development of the Property shall be limited to the following:

a) Permitted Uses

The following uses shall be permitted on the Property:

Use	Max Floor Area (SF) or Units
Commercial	Maximum: 1,500,000 Square Feet Minimum: 350,000 Square Feet
Residential (Total)	Up to 2,650 units ¹
Residential (Single-Family Detached)	Up to 1,575 units
Residential (Other)	Up to 1,075 units
Public recreational facilities	N/A
Publicly owned building, facility or land (including public utility installations)	N/A

¹ A minimum of twenty percent (20%) of the total 2,650 residential units shall be Age-Targeted and/or Age-Restricted Units. In the event the total number of units developed on the Property is less than the maximum permitted by this Agreement, then the twenty percent (20%) requirement shall apply to the lesser number.

- a. Subject to the Maximum Floor Area referenced above, commercial uses shall be limited to the following types:
 - i. All uses listed as a permitted use in the HC District, unless prohibited by the COD/COD-N, taking into account the Overlay Exceptions
 - ii. All uses listed as a permitted use in the LC District, unless prohibited by the COD/COD-N, taking into account the Overlay Exceptions
- b. Subject to the Maximum Unit counts referenced above, residential uses shall be limited to the following types:
 - i. Residential (Single-Family Detached)
 - 1. Single-family residential dwellings, detached (other than mobile homes)
 - ii. Residential (Other)
 - 1. Single-family residential dwellings, attached, with each unit located on an individual lot (including townhomes and rowhomes)
 - 2. Single-family residential dwellings, attached, with two or more units located on an individual lot (including duplexes, triplexes, etc.)
 - 3. Multi-family dwellings (including apartments and condominiums)
 - 4. Group dwellings
- c. The developer reserves the right to transfer residential units and densities to any portion of the Property, provided the total number of units does not exceed the maximum unit counts references above.
- d. Any building(s) constructed within the Property may contain a mixture of residential and/or non-residential uses.
- e. Accessory uses and buildings may be permitted on any residential or non-residential lot, provided such uses are not located in front of the principal

structure, and provided such uses are located at least five (5) feet from any side or rear property line.

- f. Customary home occupations shall be permitted within any residential dwelling, provided the home occupation meets the requirements of Article 1, Section 7(F) of the Zoning Ordinance.
- g. Private neighborhood amenities (including, but not limited to, community facilities, neighborhood parks, open space, pools, playgrounds and other customary uses) shall be permitted throughout the Property, and will not count towards the maximum allowable commercial square footage, provided such amenities are restricted to residents of the Property.
- h. All density calculations, to the extent they become relevant during the Term of this Agreement, shall be based upon the gross land area contained within the boundaries of the Property, including wetlands, ponds and lakes, greenways, open space, trails, utility easement areas, roadways, and land donated for public parks and facilities.

b) Development Standards

Unless modified by this Agreement, all development within the Property shall meet the requirements set forth in the Zoning Ordinance, and in particular, the provisions of the MXU zoning district thereof, the Code of Ordinances, and other applicable land development regulations, as of the effective date of this Agreement, including, but not limited to, minimum lot sizes and widths, building setbacks, building height, impervious area, sidewalks, streets and access, open space, signage, landscaping and screening.

Notwithstanding the previous paragraph, the following modifications shall apply to all development within the Property:

- a. *Minimum Lot Widths (Single-Family Residential)*. The minimum lot width for single-family (cottage) residential units shall be forty (40) feet.
- b. *Architectural Standards*. The Developer will establish, through covenants running with the land, requirements for architectural elements and architectural style for the Project that will be enforced by Developer and Owners Association(s). At a minimum, the exterior of all structures within the Property shall feature quality materials such as brick, natural stone, stucco,

wood and/or fiber cement siding. Metal, concrete block (including split face and scored block), precast or formed in place concrete, and vinyl siding, shall not be permitted as a primary external building material. Any portions of the Property which have been or will be dedicated, donated or sold by any Developer or other party to the Town shall not be subject to any such restrictions, covenants, requirements regarding architectural elements and architectural style for the Project, unless specifically addressed or created by specific provision in this Agreement or by agreement with the Town at the time of such dedication, donation or sale.

- c. *COD/COD-N Overlay Exceptions.* The Developer and Town acknowledge that a portion of the Property shall be subject to the zoning requirements of the Fort Mill Southern Bypass Corridor Overlay District (COD) and Corridor Overlay District-Node (COD-N), with the following exceptions (collectively, the “Overlay Exceptions”):

- i. To encourage walkability in areas designated for higher density residential and/or more intense commercial uses, any area(s) which are located within the COD and which are shown on the Concept Plan, attached hereto as Exhibit B, to contain commercial and/or multi-family development, may, at the Developer’s option, be subject to the requirements of the COD-N rather than COD.
- ii. All development pods, as shown on the Concept Plan attached hereto as Exhibit B, which contain frontage on Fort Mill Parkway (or any other road which falls within the COD/COD-N Overlay District), shall be permitted to include at least one access point (curb cut), to ensure adequate ingress and egress to and from the subject parcel, even if such access points are in conflict with the requirements of the COD/COD-N district; provided, however, any access point(s) which require an encroachment permit from SCDOT may be subject to additional specifications and/or spacing requirements, as may be required by SCDOT.

- iii. Any individual building (including, but not limited to, anchor tenants and strip centers) located on a parcel designated as “Commercial” on the Concept Plan, attached hereto as Exhibit B, which contains at least 25,000 square feet of commercial development, shall be permitted to locate parking in front of the principal structure under the following conditions:
1. The streetscape requirements specified in Section 24(6) of the Zoning Ordinance shall be increased by 50% along the corridor frontage; and
 2. A pedestrian access zone shall be included to provide safe pedestrian access between the required sidewalk along the corridor frontage and the front entrance of the anchor tenant or strip center building. This pedestrian access zone shall be separate and distinguished from vehicular parking areas. The pedestrian access zone shall be a minimum of 35 feet in width, and contain a paved sidewalk or pathway at least eight feet in width. The pedestrian access zone shall be landscaped in accordance with the requirements specified in Section 24(6) of the Zoning Ordinance.
 3. Should the Developer elect to donate right-of-way to the Town or County for the future widening of portions of Fort Mill Parkway and/or Spratt Street, any setback areas required by Sections 24(4) and 24(6) of the Zoning Ordinance shall be decreased by one foot for each one foot of right-of-way which is donated. The setback reduction area(s) shall be immediately adjacent to the section(s) of right-of-way which are donated for future widening.
 4. The COD/COD-N Overlay District will not apply to any development fronting (i) on Brickyard Road at its intersection with the Fort Mill Parkway, and (ii) on Spratt Street at its intersection with Fort Mill Parkway.

- d. *Streetscape Buffers.* For portions of the Property which front Brickyard Road and Kanawha Street, a minimum streetscape buffer shall be provided, running parallel to the public right-of-way, along the full length of the lot line. The following streetscape standards shall apply:
- i. *Minimum Width.* The minimum width of the streetscape buffer shall be 35 feet. If adjacent to any Waters of the State, the minimum streetscape buffer shall be 45 feet. For commercial pods shown on the Concept Plan, attached hereto as Exhibit B, the streetscape buffer shall be located within the building setback area.
 - ii. *Required Buffer Plantings.* At a minimum, the required streetscape buffer shall, at the option of the Developer, remain in its natural state or may be landscaped in accordance with the following:
 - 1. A minimum of one canopy or ornamental tree, and one evergreen tree, shall be provided for each 75 linear feet of road frontage, or fraction thereof; and a minimum of six shrubs shall be provided for each 50 linear feet of road frontage, or fraction thereof.
 - 2. Existing trees located within the required streetscape area shall be counted toward meeting the minimum streetscape buffer requirements; provided they are in a healthy condition. It is expressly agreed by both the Town and the Developer that the maintenance of existing trees and natural buffer areas, where provided, shall be the preferred method of meeting the streetscape buffer requirements.
 - 3. If berms are incorporated into the streetscape buffer, the minimum planting requirements may be reduced by one-third, provided the intent of the streetscape buffer will still be achieved.
 - iii. *Exceptions.* The following exceptions shall apply to the streetscape buffer requirements:

1. Areas used for public or private access roads, driveways, service drives, emergency access lanes, and walkways or pathways between the Property and Brickyard Road, Kanawha Street and Spratt Street, shall be permitted to encroach into the streetscape buffer;
 2. Any portion of the Property which is subject to the requirements of the COD/COD-N Overlay District, shall comply with the streetscape requirements outlined in COD/COD-N, unless modified by this Agreement.
 3. The 3.0-acre single-family pod fronting Brickyard Road, as shown on the Concept Plan attached hereto as Exhibit B, shall not be subject to the streetscape buffer requirements.
 4. Decorative fencing, walls and Project-related monument signs may be located within the required streetscape buffer areas.
- e. *Archaeological and Historic Preservation Survey.* Prior to the approval of a preliminary plat or the issuance of any local, state or federal development permits, the Developer shall complete an archeological and historic preservation survey for all portions of the Property which are proposed for development. The survey shall be completed by a qualified contractor of the Developer's choosing, using the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation*, and such other guidelines or regulations which may be specified by the state or federal government. The survey shall be conducted in consultation with appropriate state agencies and the Catawba Indian Nation.
- f. *Endangered Species Survey.* Prior to the approval of a preliminary plat or the issuance of any local, state or federal development permits, the Developer shall complete an endangered species survey for all portions of the Property which are proposed for development. The survey shall be completed by a qualified contractor of the Developer's choosing, using such guidelines or regulations which may be specified by the state or federal government.

- g. *Acknowledgement that Park Land Donations Shall Contribute to Open Space Requirements.* The Town acknowledges and agrees that the acreage included in the Park land donations and the green or open space dedications detailed in Section 9 shall be available for the Developer to meet its open or green space requirements under the Ordinances for the development of the other portions of the Property.

8. EFFECT OF FUTURE LAWS.

Developer shall have vested rights to undertake development of any or all of the Property in accordance with the Code of Ordinances and the Zoning Ordinance, as they may be modified in the future pursuant to the terms hereof, and this Agreement for the entirety of the Term. Future enactments of, or changes or amendments to the Town ordinances, including the Code of Ordinances or the Zoning Ordinance, which conflict with this Agreement shall apply to the Property only if permitted pursuant to the Act, or agreed to in writing by the parties. The parties specifically acknowledge that building moratoria enacted by the Town during the Term of this Agreement or any adequate public facilities ordinance as may be adopted by the Town shall not apply to the Project except as may be allowed by the Act.

The parties specifically acknowledge that this Agreement shall not prohibit the application of any present or future building, housing, electrical, plumbing, gas or other standard codes, of any tax or fee of general application throughout the Town, including but not limited to development impact fees and stormwater utility fees (so long as such development impact fees and stormwater utility fees are applied consistently and in the same manner to all similarly-situated property within the Town limits), or of any law or ordinance of general application throughout the Town found by the Fort Mill Town Council to be necessary to protect the health, safety and welfare of the citizens of Fort Mill. Notwithstanding the above, the Town may apply subsequently enacted laws to the Property only in accordance with the Act.

9. INFRASTRUCTURE AND SERVICES.

Fort Mill and Developer recognize that the majority of the direct costs associated with the development of the Property will be borne by the Developer. Subject to the conditions set forth herein, the parties make specific note of and acknowledge the following:

A. Potable Water. The Town represents that it has available through an intergovernmental agreement between it, as buyer, and the City of Rock Hill, as seller, dated May, 2012, a sufficient supply to potable water to serve the Property. Potable water will be supplied to the Property by the Town upon request of the Developer and subject to the provisions of this Section 9.A., provided that the Developer keeps the Town informed in writing of its progress with respect to the Development Schedule as set forth in Section 6. The Town's obligation to provide potable water for use within the Property is subject to any delay in the availability of water capacity or transmission facilities caused by Force Majeure. "Force Majeure" means any act of God, act of war, civil disturbance, governmental action other than an action taken or initiated by the Town, strikes, lockouts, fire, unavoidable casualties or any other causes beyond the reasonable control of the Town. Developer will construct or cause to be constructed at Developer's cost all necessary water service infrastructure to, from, and within the Property per Town specifications which will be maintained by it or the provider. The Developer shall be responsible for maintaining all related internal water infrastructure until offered to, and accepted by, the Town for public ownership and maintenance. Upon final inspection and acceptance by the Town, the Developer shall provide an eighteen (18) month warranty period for all water infrastructure constructed to serve the Project.

Subject to the provisions of Section 9.N below, the Property shall be subject to all current and future water capacity fee/hookup charges ("Water Tap and Capacity Fees") imposed by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. In particular, subject to the limitations of Section 9.N below, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future Water Tap and Capacity Fees (so long as such development impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. Subject to the limitations of Section 9.N below, Developer shall be responsible for paying all such Water Tap and Capacity Fees but not until application for a building permit for the vertical development of each subdivided lot or portion of the Property.

Notwithstanding the provisions referenced above, nothing in this Agreement shall preclude the Town Developer from entering into a separate utility agreement for

cost-sharing of water transmission systems when such agreement may be of mutual benefit to both parties. Nothing herein shall be construed as precluding the Town from providing potable water to its residents in accordance with applicable provisions of laws.

B. Sewage Treatment and Disposal. The Town represents that it presently has available unallocated sewage treatment capacity at the WWTP of approximately 1.7 million gallons per day (the “Current Capacity”). The parties understand and agree that the Current Capacity will be allocated among users of the Town’s wastewater system in such order as applications for service are received by the Town and consistent with all applicable laws and regulations. The Town represents that the Current Capacity will be sufficient to serve the initial 25% of the development of the Property as indicated on Exhibit E hereto as well as all other reasonably foreseeable additional demand for sewer service by customers of the Town during the five years following the effective date of this Agreement. Accordingly, sewage treatment and disposal will be provided to the Property by the Town, provided that the Developer keeps the Town informed in writing of its progress with respect to the Development Schedule as set forth in Section 6 and further provided that the Development Schedule is not within five years of the effective date of this Agreement accelerated to increase demand within the Property beyond that reasonably foreseeable as of the effective date of this Agreement. The Town’s obligation to provide sewage treatment and disposal to services to the Property is subject to any delay in the availability of the same or sewage transmission facilities caused by Force Majeure. “Force Majeure” means any act of God, act of war, civil disturbance, governmental action other than an action taken or initiated by the Town, strikes, lockouts, fire, unavoidable casualties or any other causes beyond the reasonable control of the Town. Developer will construct or cause to be constructed at Developer’s cost all related infrastructure improvements to, from, and within the Property per Town specifications. The Developer shall be responsible for maintaining all related sewer infrastructure until offered to, and accepted by, the Town for public ownership and maintenance. Upon final inspection and acceptance by the Town, the Developer shall provide an eighteen (18) month warranty period for all internal sewer infrastructure constructed to serve the Project.

It is the Town's intent to undertake the construction of additional sewage treatment capacity at WWTP, with such additional capacity to be available no later than the date five years following the execution date of this Agreement. The Town covenants that it will construct sufficient additional capacity so as to meet all reasonably foreseeable needs of current and projected future customers of the sewage system, including, but not limited to, that generated by the Property consistent with the Development Schedule shown in Exhibit E. Notwithstanding this covenant, however:

(i) The Town shall not be required to undertake any borrowing secured by its water or sewer systems or the revenues thereof ("**Utility Revenue Bonds**") which (a) does not satisfy all conditions for the issuance of senior lien parity bonds secured by revenues from the facilities serving the Property as contained in proceedings of the Town authorizing Utility Revenue Bonds; (b) would require an increase in rates charged customers of the System in excess of fifteen percent (15%) (either in a single rate increase or in two or more rate increases implemented within a period of five (5) years); or (c) would cause the Town to violate any debt service coverage covenants given to secure its Utility Revenue Bonds. The availability of water and sewer service shall at all times be subject to laws, regulations, and actions undertaken by the County, the State of South Carolina, and the United States government. Additionally, the availability of water and sewer service shall be subject to all ordinances enacted and actions undertaken by the Town pursuant to the South Carolina Drought Response Act, presently codified as Chapter 23 of Title 49, South Carolina Code of Laws, 1976, as amended and other laws and regulations regulating the withdrawal of surface water or groundwater or the discharge of wastewater.

(ii) Nothing contained in this Section or this Agreement shall require the Town to exceed its statutory or state constitutional debt limitations, nor shall the obligations of the Town hereunder constitute a charge against or pledge of the full faith, credit, or taxing power of the Town.

If the Town, for any reason, cannot or does not provide water and sewer capacity and transmission facilities for any portion of the Property and its owners, occupants, and tenants from time to time at the levels required for the development of the Property,

pursuant to the Development Schedule shown in Exhibit E, or its use and enjoyment after development as contemplated in this Agreement, the Developer, and its successors and assigns, shall be entitled to pursue agreements with alternative sources and other jurisdictions (collectively “Alternative Water and Sewer Sources”) for the provision of water or sewer capacity and transmission, as applicable, at no cost or expense to the Town, to serve any portion or all of the Property. Upon reaching an agreement with one or more Alternative Water and Sewer Sources for the provision of water and sewer capacity and transmission facilities to serve the Property which is acceptable to the Developer, in its sole discretion, the Developer shall notify the Town of such agreement, and as promptly as possible after such notification, the Town shall enter into an intergovernmental agreement or other proper statutory vehicle with such Alternative Water and Sewer Source(s) selected by the Developer whereby water and sewer capacity and transmission facilities may be provided legally by such Alternative Water and Sewer Source(s) to the Property and its owners, occupants and tenants at no cost to the Town. It is understood and agreed by the parties that Developer shall not relieve the Town from its obligations to provide adequate water and sewer capacity to the Project except in the case of Force Majeure or the limitations set out in subparagraph (i) and (ii) of Subsection B above.

The only remedy at law or in equity that shall be available to Developer in the event of a breach by the Town of the provisions of Subsections A and B of this Section 9 shall be an action for specific performance of the express terms hereof, it being understood that if Developer prevails in such an action for specific performance, the Town shall owe Developer its reasonable attorneys’ fees and all other expenses of litigation.

Subject to the provisions of Section 9.N below, the Property shall be subject to all current and future sewer connection/capacity fees (“Sewer Tap and Capacity Fees”) imposed by the Town, provided such Sewer Tap and Capacity Fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. In particular, subject to the limitations of Section 9.N below, Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future Sewer Tap and Capacity Fees (so long as such Sewer Tap and Capacity Fees are

applied consistently and in the same manner to all similarly-situated property within the Town limits. Subject to the limitations of Section 9.N below, Developer shall be responsible for paying all such Sewer Tap and Capacity Fees but not until application for a building permit for the vertical development of each subdivided lot or portion of the Property.

Notwithstanding the provisions referenced above, nothing in this Agreement shall preclude the Town and Developer from entering into a separate utility agreement for cost-sharing of sewer transmission systems when such agreement may be of mutual benefit to both parties. Nothing herein shall be construed as precluding the Town from providing sewage treatment to its residents in accordance with applicable provisions of laws.

C. Private Roads. All roads within the Project shall be public roads. Private alleys may be allowed in limited circumstances, provided such alleys are constructed to Town standards, are approved by the Fort Mill Planning Commission as part of the subdivision plat approval process, and will be owned and maintained by a private Owners Association.

D. Public Roads and Traffic Impact. All public roads within the Project shall be constructed to Fort Mill and South Carolina Department of Transportation (SCDOT) specifications. The exact location, alignment, and name of any public road within the Project shall be subject to review and approval by the Fort Mill Planning Commission as part of the subdivision platting process, provided that any such subdivision plats that are materially consistent with the site plan of the Project shown on the Concept Plan shall be approved. The Developer shall be responsible for maintaining all public roads until such roads are offered to, and accepted by, the Town for public ownership and maintenance. The Town shall not accept such roads for public ownership and maintenance until certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots in a subdivided portion of the Property pursuant to the applicable approved subdivision plat. Upon final inspection and acceptance by the Town, the Developer shall provide a warranty period for all public roads within the Project, pursuant to the Town's Street Acceptance Policy in effect at the time of this Agreement.

Developer recognizes the potential impact on the public roadways resulting from the Project. A traffic impact analysis (“TIA”) covering the anticipated uses and densities on the Property shall be performed by the Developer prior to the issuance of any Preliminary Plat(s) for all or part of the Property. The TIA shall be completed by a qualified traffic engineer of the Developer’s choosing, in consultation Town and the South Carolina Department of Transportation (“SCDOT”). Any off-site transportation improvements deemed necessary by the TIA to maintain an acceptable Level of Service on the public roadway network shall be the responsibility of the Developer; provided, however, the Developer shall not be responsible for mitigating existing (“pre-development”) deficiencies, or deficiencies resulting from non-project related (“background”) growth; provided further that the Developer shall not be required to mitigate any other identified deficiencies or install any off-site transportation improvements identified in the TIA until such time as the process of development of the Project actually causes the impact identified in the TIA or the need for such mitigating improvements. Should the developer seek to finance such off-site improvements through a Municipal Improvement District (“MID”), as specified in Section 9.R. of this Agreement, the Developer and the Town agrees to negotiate in good faith on the terms of such financing arrangement, subject to the provisions of Section 9.R. No further TIA will be required for individual development applications that are submitted in conformity with the Zoning Ordinance and this Agreement; provided, however, if the Developer seeks to increase the overall density of the Project and/or change the intensity or type of commercial uses above and beyond the assumptions used in the original TIA, then the Town reserves the right to require an updated TIA. The Developer may, at the Developer’s option, coordinate with adjacent property owners for a joint traffic impact analysis, provided development on both or all properties is expected to commence within twenty-four (24) months from the date of the analysis.

As to York County’s contemplated realignment of Fort Mill Parkway and relocation of its intersection with U.S. Business 21 (the “County Realignment Project”), Developer agrees to work in good faith with and grant to York County an exclusive negotiating period until December 31, 2016, to attempt to come to an agreement between the parties by December 31, 2016 as to compensation for a taking of any portion of the

Property under eminent domain for the County Realignment Project. This commitment is made by the Developer to the Town upon the recent representation of York County to the Developer that the County Realignment Project is already “funded.”

Notwithstanding any provision herein to the contrary, this Agreement does not obligate the Town to expend any funds of the Town or borrow any sums in connection with improvements to the roads subject to this Section 9.D. The parties understand and agree that except as set out in the preceding sentence, the Town will seek funding from third parties for any such improvements which by reason of this Section 9.D are not the responsibility of the Developer and that the availability of such funding is beyond the control of either the Developer or the Town.

E. Storm Drainage System. All stormwater runoff, drainage, retention and treatment improvements within the Property shall be designed in accordance with the Zoning Ordinance and Chapter 16 of the Code of Ordinances. All stormwater runoff and drainage system structural improvements, including culverts and piped infrastructure, will be constructed by the Developer and dedicated to the Town. The Town shall not accept such drainage system structural improvements for public ownership and maintenance until certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots in any subdivided portion of the Property pursuant to the applicable approved subdivided plat of such portion of the Property. Upon final inspection and acceptance by the Town, the Developer shall provide a one-year warranty period for all drainage system structural improvements within the Project. Retention ponds, ditches and other stormwater retention and treatment areas will be constructed and maintained by the Developer and/or an Owners Association, as appropriate.

F. Solid Waste and Recycling Collection. The Town shall provide solid waste and recycling collection services to the Property on the same basis as is provided to other residents and businesses within the Town.

G. Police Protection. The Town shall provide police protection services to the Property on the same basis as is provided to other residents and businesses within the Town.

H. Fire Services. The Town shall provide fire services to the Property on the same basis as is provided to other residents and businesses within the Town.

I. Emergency Medical Services. Such services to the Property are now provided by York County through a contract with a private provider. The Town shall not be obligated to provide emergency medical services to the Property, absent its election to provide such services on a town-wide basis.

J. School Services. The Town neither provides nor is authorized by law to provide public education facilities or services. Such facilities and services are now provided by Fort Mill School District No. 4 of York County (the “School District”). The person or entity, whether it be homebuilder or another assignee of Developer, who actually initiates the building permit shall be responsible for paying all impact fees levied by the School District for each residential unit constructed prior to the issuance of a certificate of occupancy.

K. Private Utility Services. Private utility services, including electric, natural gas, and telecommunication services (including telephone, cable television, and internet/broadband) shall be provided to the site by the appropriate private utility providers based upon designated service areas. All utilities on the Property shall be located underground, and shall be placed in locations approved by the Town so as to reduce or eliminate potential conflicts within utility rights-of-way.

L. Streetlights. Developer shall install or cause to be installed streetlights within the Project. To the extent that the Town provides the same benefit to other neighborhoods, the Town shall contribute toward the monthly cost for each streetlight. The remaining monthly cost for each streetlight, if any, shall be borne by the Developer and/or Owners Association.

M. Parks and Open Spaces. As identified in the Concept Plan shown in Exhibit B, certain parcels within the Project will be owned and maintained by the Developer or Owners Association(s) as private parks, amenities and open space, and certain lands identified below will be dedicated to and maintained by the Town for public parks, amenities and open space. All dedications of property to the Town pursuant to this Section 9.M shall be made by way of special warranty deeds each conveying good and marketable title to the Town.

(i) The Developer may, no later than six months after the commencement of development of the project, choose to donate to the Town the

area of the Property identified on the Concept Plan as “P” containing 42.75 acres, more or less, for use, improvement, operation and maintenance by the Town for public recreational purposes. This 42.75-acre public park shall perpetually bear the name of “Spratt” and shall be operated to provide a variety of active recreational facilities and activities for the public. The Town covenants and agrees that this parcel shall be used only for public recreation and/or open space purposes, will be maintained in accordance with the highest standards of park and open space stewardship as established by the best practices of other municipalities in South Carolina, and agrees that the deed may incorporate such covenant. It is understood and agreed that the aforesaid donation will be entirely voluntary on the part of the Developer and is not a requirement for annexation of the Property or the approval of the Concept Plan by the Town.

(ii) The applicable Developer shall donate to the Town those portions of the Property depicted of various widths on the Concept Plan as “Proposed Greenway Trail”, for use, improvement, operation and maintenance as a public trail system. The applicable Developer shall develop and install a portion of the Proposed Greenway Trail at the time the applicable portion or pod of the Property is developed, and upon completion of that pod, will donate that particular portion of the Greenway Trail to the Town. All trails shall be at least ten (10) feet in width. Trail sections which are located within or adjacent to a public right-of-way shall be paved. Trail sections which are not located within or adjacent to a public right-of-way need not be paved. Any trails, or portions of trails, which are proposed to be dedicated to the Town for ownership and maintenance and which are not located within or adjacent to a public right-of-way, shall be located within a public trail right-of-way that is at least thirty (30) feet in width. The Developer shall install any pedestrian bridges or walkways which may be necessary to provide safe crossing over waterways, steep or unusual topography, or other obstacles along the trail. The Developer shall also install at least one (1) pedestrian underpass under Fort Mill Parkway, in the general location shown on the Concept Plan, to provide grade-separated access between the northern and southern portions of the Property. The Town covenants and agrees that this parcel,

or collection of parcels, shall be used only for trails, public recreation and/or open space purposes, will be maintained in accordance with the highest standards of park and open space stewardship as established by the best practices of other municipalities in South Carolina, and agrees that the deed may incorporate such covenant. It is understood and agreed by the Town that the applicable Developer may choose at its sole discretion to impose a conservation easement on the land constituting the aforesaid Greenway Trail system.

(iii) The Developer may, no later than six months after commencement of development of the Project, choose to donate to the Town that area of the Property identified as “P” containing 12.70 acres, more or less, to be maintained perpetually as a park, a canoe launch site, or other recreational use. The Town covenants and agrees that this parcel shall be used only for public recreation, riparian and/or open space purposes, will be maintained in accordance with the highest standards of park and open space stewardship as established by the best practices of other municipalities in South Carolina, and agrees that the deed may incorporate such covenant. It is understood and agreed that the aforesaid donation will be entirely voluntary on the part of the Developer, and is not a requirement for annexation of the Property or the approval of the Concept Plan by the Town.

(iv) The Developer may, no later than six months after commencement of development of the Project, choose to donate to the Town the area of the Property identified on the Concept Plan as “P” [INCLUDES SPRATT CEMETERY] containing 8.2 acres, more or less, to be maintained as a historic cemetery site and a surrounding public park. The Town shall erect and maintain an appropriate historic marker and an historically accurate stone wall around the perimeters of the cemetery site with an iron gate. The enclosed cemetery and its stone wall shall be maintained in a neat condition. The surrounding public park area will be maintained in accordance with the highest standards of park and open space stewardship as established by the best practices of other municipalities in South Carolina. The Town shall assure access to the cemetery site along the Greenway Trail system to members of the Spratt Family in perpetuity. The Town agrees that the deed may incorporate such covenants for maintenance. It is

understood and agreed that the aforesaid donation will be entirely voluntary on the part of the Developer, and is not a requirement for annexation of the Property or the approval of the Concept Plan by the Town.

(v) The portion of the Property identified on the Concept Plan as “OS” containing 63.24 acres, more or less, shall not be developed and shall remain as green space.

The Developer shall have the option of installing utility easements, trails and access roads and bridges and, as appropriate, erecting structures on the areas of the Property identified in this Section 9.M either prior to or following donation. In addition, the Developer shall have the option of claiming and offsetting the land of the donated areas of the Property identified in subparagraphs (i), (ii), (iii) and (iv) of this Paragraph 9.M against any required open space requirements under the Ordinances of the Town in connection with the development of the Property.

In the deeds of conveyance of any of the portions of the Property to be donated to the Town as aforesaid, the Town agrees to accept such deeds of conveyance with the restrictions on use as set out above, as applicable, and additional affirmative restrictive covenants regarding maintenance as may be reasonably imposed by Developer upon the specific portions of the donated Property. In addition, the Town understands and agrees that any such deeds of conveyance of the donated Property shall contain a right of Developer, or its respective successors and assigns, as applicable, to enforce any of the aforesaid restrictions to be activated in the event of a material violation of any of such covenants and restrictions on use and maintenance of the donated portions of the Property. Notwithstanding anything to the contrary stated herein, none of the portions of Property that the Town accepts by donation shall be subject to any restrictive covenants or Owners Association obligations that may be subsequently established by the Developer applicable to other portions of the Property.

N. Donation of Acreage for Sewer Plan Expansion. The Developer shall, not later than 150 days following the effective date of this Agreement, donate to the Town

that portion of the Property identified on the Concept Plan as “U” [TOWN UTILITY] containing 3.0 acres more or less, for the exclusive and sole use of the Town for the expansion of the WWTP (“Sewer Expansion Tract”). Prior to such donation by Developer, the Sewer Expansion Tract shall be appraised by an MAI appraiser mutually acceptable to the Developer and the Town to determine its market value at its highest and best use effective not more than sixty (60) days prior to the delivery of a special warranty deed for the Sewer Expansion Tract conveying good, marketable title thereto to the Town. The Town and the Developer agree that the appraised value of the Sewer Expansion Tract shall be used to determine the value of a Tap Fee Credit. The Tap Fee Credit shall be applied by the Town towards future Water Tap and Capacity Fees and Sewer Tap and Capacity Fees (collectively, “Tap Fees”) charged for new development within the Property. The Tap Fee Credit shall be applied as follows: All new development applications within the Project shall receive a credit equal to one hundred percent (100%) of the total Tap Fees due at the time a building permit is issued. The value of each individual credit will be based upon the project’s meter size, as well as the corresponding rate schedule in effect at the time a permit is issued. Each subsequent development application will continue to receive a credit in the same manner, up to, and until, the total value of the Tap Fee Credit for the Property has been exhausted, whether during the Term of this Agreement or after termination of this Agreement for any reason.

O. No Required Donations for Civic Purposes. Except with respect to easements necessary for public infrastructure to serve the Property and except for the donation of portions of the Property as set out in Sections 9.M(ii) and 9.N above, the Town shall not require, mandate or demand that, or condition approval(s) upon a requirement that, the Developer donate, use, dedicate or sell to the Town or any other party for public purposes any portions of the Property or any other property owned by the Developer (or any of the entities or parties comprising the Developer) or any affiliate of the Developer; provided, however, nothing contained herein shall be deemed or construed to restrict the Town in the appropriate exercise of its eminent domain powers.

P. Easements. Developer shall be responsible for obtaining, at Developer’s cost, all easements, access rights, or other instruments that will enable the Developer to tie into current or future water and sewer infrastructure on adjacent properties.

Q. Ponds and Lakes. The Developer may elect to install pond(s) or lake(s) as shown on the Concept Plan, in addition to pond(s) already in place. The Town agrees to cooperate and assist the Developer in the permitting process for such pond(s) and lake(s), including any repair or enlargement thereof, it being understood that the Town will not accept maintenance responsibility or any other liability for such pond(s) and lake(s).

R. Infrastructure Financing. On July 14, 2008, the Town adopted a revised Policy Statement relating to Municipal Improvement Districts (the “**MID Policy Statement**”) to finance certain infrastructure improvements, such as the Kanawha Farms Infrastructure Improvements, within the Town limits. The current version of the MID Policy Statement shall be applicable to the development of the Property during the Term. It is the Town’s intention as of the Agreement Date to make available Municipal Improvement District (“**MID**”) financing to the Developer pursuant to South Carolina law and consistent with the MID Policy Statement to finance, to the extent legally permissible, costs of the project’s infrastructure improvements and certain off-site infrastructure improvements. In that regard, the Town shall give good faith consideration to the Developer’s request that the Town utilize MID financing to pay costs of the project’s infrastructure improvements and costs of infrastructure improvements situated outside of the Property (including roads and water and sewer transmission facilities and treatment facilities and pump stations for water and sewer capacity as permitted by law). Such good faith consideration is dependent, however, upon the satisfaction of applicable portions of the MID Policy Statement, as well as other applicable statutory requirements, being met, upon the Town incurring no general obligation for the bonds to be issued to implement the improvement plan(s) for the MID(s) and upon the Developer paying (or reimbursing) all direct expenses incurred by the Town in connection with any MID(s) requested by the Developer (*e.g.* , engineering studies and costs, attorneys’ fees, MID administrative costs, etc.). Further, until sufficient details are provided by the Developer to the Town to allow the Town to adequately analyze the appropriateness of using MID financing bonds to fund particular portions or components of the project’s infrastructure improvements and/or infrastructure improvements situated outside of the Property, the Town is not in a position to approve such use of MID financing bonds, and nothing in this Agreement shall be deemed or construed as a commitment or pre-approval by the

Town to so approve such use of MID financing bonds, such financing being in the sole discretion of the Town at the time application for such financing is made by the Developer.

S. Termination of Development Agreement. In the event the donations of the land to the Town contemplated under subparagraphs (i), (iii) and (iv) of Subsection 9.M and under Section 9. N above are not made by December 31, 2017, the Town shall have the option of terminating this Agreement and declaring it null and void and changing the zoning classification of the Property from MXU to the equivalent of the York County's zoning classification of LI under the Town's Zoning Ordinances.

10. IMPACT FEES.

The Property shall be subject to all current and future development impact fees imposed by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. All such impact fees shall not be due and payable until an application of any person or entity for a building permit for the vertical development of any subdivided lot or portion of the Property. In particular, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future development impact fees (so long as such development impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits) for any reason, including the fact that such portions of the Property may be or have been developed as senior housing (it being agreed that there is no obligation of any Developer to construct senior housing). For the purpose of this Agreement, the term "development impact fees" shall include, but not be limited to, the meaning ascribed to such term in the South Carolina Development Impact Fee Act, Sections 6-1-910, et seq., of the South Carolina Code of Laws (1976), as amended. The School District is hereby deemed a third-party beneficiary of this Section and may enforce the provisions hereof.

11. PROTECTION OF ENVIRONMENT AND QUALITY OF LIFE.

The Town and Developer recognize that development can have negative as well as positive impacts. Specifically, Fort Mill considers the protection of the natural environment and nearby waters, and the preservation of the character and unique identity of the Town, to be

important goals. Developer shares this commitment and therefore agrees to abide by all provisions of federal, state and local laws and regulations for the handling of storm water.

12. COMPLIANCE REVIEWS.

Developer, or its assigns, shall meet with the Town, or its designee, at least once per year during the Term to review development completed in the prior year and the development anticipated to be commenced or completed in the ensuing year. The Developer must demonstrate good faith compliance with the terms of this Agreement. The Developer, or its designee, shall be required to provide such information as may reasonably be requested, to include but not be limited to, acreage of the Property sold in the prior year, acreage of the Property under contract, the number of certificates of occupancy issued in the prior year and the number anticipated to be issued in the ensuing year, and Development Rights and Obligations transferred in the prior year and anticipated to be transferred in the ensuing year.

13. DEFAULTS.

The failure of the Developer to comply in a material way with the terms of this Agreement shall constitute a default, entitling the Town to pursue such remedies as deemed appropriate, including specific performance and the termination or modification of this Agreement in accordance with the Act; provided however no termination of this Agreement may be declared by the Town absent its according the Developer the notice and opportunity to cure in accordance with the Act.

14. MODIFICATION OF AGREEMENT.

This Agreement may be modified or amended only by the written agreement of the Town and the Developer. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced except as otherwise provided in the Act. The size of the Property may be increased by written approval of the Town.

15. NOTICES.

Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the Town shall be addressed to the Town at:

Town of Fort Mill
P.O. Box 159
Fort Mill, SC 29716
Attention: Town Manager

And to the Initial Developer at: Kanawha Land LLC
P.O. Box 626
York, SC 29745
Attn: John M. Spratt, Jr.

16. GENERAL.

A. Subsequent Laws. In the event state or federal laws or regulations are enacted after the execution of this Agreement or decisions are issued by a court of competent jurisdiction which prevent or preclude compliance with the Act or one or more provisions of this Agreement (“New Laws”), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, or court decision, a party designated by Developer and the Town shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect such New Law would have on the purposes and intent of this Agreement. During the time that these parties are conferring on such modification or suspension or challenging the New Laws, the Town may take

reasonable action to comply with such New Laws. Should these parties be unable to agree to a modification or suspension, either may petition a court of competent jurisdiction for an appropriate modification or suspension of this Agreement.

B. Estoppel Certificate. The Town or any Developer may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing:

that this Agreement is in full force and effect,

that this Agreement has not been amended or modified, or if so amended, identifying the amendments,

whether, to the knowledge of such party, the requesting party is in default or claimed default in the performance of its obligations under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and

whether, to the knowledge of such party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

C. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings between the Town and the Developer relative to the Property and its development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

D. No Partnership or Joint Venture. Nothing in this Agreement shall be deemed to create a partnership or joint venture between the Town or any Developer or to render such party liable in any manner for the debts or obligations of another party.

E. Exhibits. All exhibits attached hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

F. Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

G. Transfer of Title. Transfers of title to the Property, in whole or in part, may be made, at any time and to any person or entity, without the consent of the Town.

H. Binding Effect. The parties hereto agree that this Agreement shall be binding upon their respective successors and/or assigns.

I. Governing Law. This Agreement shall be governed by the laws of the State of South Carolina.

J. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

K. Eminent Domain. Nothing contained in this Agreement shall limit, impair or restrict the Town's right and power of eminent domain under the laws of the State of South Carolina.

L. No Third Party Beneficiaries. The provisions of this Agreement may be enforced only by the Town Developer. No other persons shall have any rights hereunder, unless specified in this Agreement.

M. Release of Developer. In the event of conveyance of all or a portion of the Property, the Developer shall be released from any obligations and liabilities with respect to this Agreement as to the portion of Property so transferred, and the transferee shall be substituted as the Developer under the Agreement as to the portion of the Property so transferred; provided, however, the transferee(s) of the four acres contemplated for subdivision and conveyance under Section 5.B shall not be deemed to succeed to any Development Rights and Obligation of Developer under this Agreement.

17. Description of Local Development Permits Needed.

The development of the Property shall be pursuant to this Agreement, the Zoning Ordinance and Code of Ordinances; provided, however, in the event of any conflict between this Agreement and the Zoning Ordinance and the Code of Ordinances, the provisions of this Agreement shall control. Necessary permits include, but may not be limited to, the following: building permits, zoning compliance permits, sign permits (permanent and temporary), temporary use permits, accessory use permits, driveway/encroachment/curb cut permits, clearing/grading permits, and land disturbance permits. Pursuant to Chapter 32 of the Code of

Ordinances, approval from the Fort Mill Planning Commission shall be required for all sketch plans, preliminary plats, and final plats, unless such plan or plat meets the requirements for administrative review and approval. Notwithstanding the foregoing, the Town acknowledges that Planning Commission and/or administrative approval of plats will be given if any such plats are materially consistent with the site plan of the Project shown on the Concept Plan. It is specifically understood that the failure of this Agreement to address a particular permit, condition, term or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions. It is expressly understood and acknowledged by all parties to this Agreement that any portions of the Property donated or sold by either any Developer to the Town shall not be subject to any private declaration of restrictions or property owners association(s) created by any Developer for any subsequent subdivision of the Property.

18. STATEMENT OF REQUIRED PROVISIONS.

In compliance with Section 6-31-60(A) of the Act, the Developer represents that this Agreement includes all of the specific mandatory provisions required by the Act, addressed elsewhere in this Agreement.

[Signature Pages Follow]

EXHIBIT A

South Carolina Local Government Development Agreement Act
as Codified in Sections 6-31-10 through 6-31-160
of the Code of Laws of South Carolina (1976), as amended

Title 6 - Local Government - Provisions Applicable to Special Purpose Districts and Other Political Subdivisions

CHAPTER 31.

SOUTH CAROLINA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT

SECTION 6-31-10. Short title; legislative findings and intent; authorization for development agreements; provisions are supplemental to those extant.

(A) This chapter may be cited as the "South Carolina Local Government Development Agreement Act".

(B)(1) The General Assembly finds: The lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning.

(2) Assurance to a developer that upon receipt of its development permits it may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, reduces the economic costs of development, allows for the orderly planning of public facilities and services, and allows for the equitable allocation of the cost of public services.

(3) Because the development approval process involves the expenditure of considerable sums of money, predictability encourages the maximum efficient utilization of resources at the least economic cost to the public.

(4) Public benefits derived from development agreements may include, but are not limited to, affordable housing, design standards, and on and off-site infrastructure and other improvements. These public benefits may be negotiated in return for the vesting of development rights for a specific period.

(5) Land planning and development involve review and action by multiple governmental agencies. The use of development agreements may facilitate the cooperation and coordination of the requirements and needs of the various governmental agencies having jurisdiction over land development.

(6) Development agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project. Development agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public

safety, health, and general welfare of the citizens of our State.

(C) It is the intent of the General Assembly to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

(D) This intent is effected by authorizing the appropriate local governments and agencies to enter into development agreements with developers, subject to the procedures and requirements of this chapter.

(E) This chapter must be regarded as supplemental and additional to the powers conferred upon local governments and other government agencies by other laws and must not be regarded as in derogation of any powers existing on the effective date of this chapter.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-20. Definitions.

As used in this chapter:

(1) "Comprehensive plan" means the master plan adopted pursuant to Sections 6-7-510, et seq., 5-23-490, et seq., or 4-27-600 and the official map adopted pursuant to Section 6-7-1210, et seq.

(2) "Developer" means a person, including a governmental agency or redevelopment authority created pursuant to the provisions of the Military Facilities Redevelopment Law, who intends to undertake any development and who has a legal or equitable interest in the property to be developed.

(3) "Development" means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels. "Development", as designated in a law or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(4) "Development permit" includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of local government having the effect of permitting the development of property.

(5) "Governing body" means the county council of a county, the city council of a municipality, the governing body of a consolidated political subdivision, or any other chief governing body of a unit of local government, however designated.

(6) "Land development regulations" means ordinances and regulations enacted by the appropriate governing body for the regulation of any aspect of development and includes a local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of property.

(7) "Laws" means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules adopted by a local government affecting the development of property and includes laws governing permitted uses of the property, governing density, and governing design, improvement, and construction standards and specifications, except as provided in Section 6-31-140 (A).

(8) "Property" means all real property subject to land use regulation by a local government and includes the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as a part of real property.

(9) "Local government" means any county, municipality, special district, or governmental entity of the State, county, municipality, or region established pursuant to law which exercises regulatory authority over, and grants development permits for land development or which provides public facilities.

(10) "Local planning commission" means any planning commission established pursuant to Sections 4-27-510, 5-23-410, or 6-7-320.

(11) "Person" means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, state agency, or any legal entity.

(12) "Public facilities" means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

HISTORY: 1993 Act No. 150, Section 1; 1994 Act No. 462, Section 3.

SECTION 6-31-30. Local governments authorized to enter into development agreements; approval of county or municipal governing body required.

A local government may establish procedures and requirements, as provided in this chapter, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a county or municipality by the adoption of an ordinance.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-40. Developed property must contain certain number of acres of highland; permissible durations of agreements for differing amounts of highland content.

A local government may enter into a development agreement with a developer for the development of property as provided in this chapter provided the property contains twenty-five acres or more of highland. Development agreements involving property containing no more than two hundred fifty acres of highland shall be for a term not to exceed five years. Development agreements involving property containing one thousand acres or less of highland but more than two hundred fifty acres of highland shall be for a term not to exceed ten years. Development agreements involving property containing two thousand acres or less of highland but more than one thousand acres of highland shall be for a term not to exceed twenty years. Development agreements involving property containing more than two thousand acres and development agreements with a developer which is a redevelopment authority created pursuant to the provisions of the Military Facilities Redevelopment Law, regardless of the number of acres of property involved, may be for such term as the local government and the developer shall elect.

HISTORY: 1993 Act No. 150, Section 1; 1994 Act No. 462, Section 4.

SECTION 6-31-50. Public hearings; notice and publication.

(A) Before entering into a development agreement, a local government shall conduct at least two public hearings. At the option of the governing body, the public hearing may be held by the local planning commission.

(B)(1) Notice of intent to consider a development agreement must be advertised in a newspaper of general circulation in the county where the local government is located. If more than one hearing is to be held, the day, time, and place at which the second public hearing will be held must be announced at the first public hearing.

(2) The notice must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

(C) In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-60. What development agreement must provide; what it may provide; major modification requires public notice and hearing.

(A) A development agreement must include:

(1) a legal description of the property subject to the agreement and the names of its legal and equitable property owners;

(2) the duration of the agreement. However, the parties are not precluded from extending the termination date by mutual agreement or from entering into subsequent development agreements;

(3) the development uses permitted on the property, including population densities and building intensities and height;

(4) a description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development;

(5) a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the development agreement;

(6) a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms, or restrictions;

(7) a finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

(8) a description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; and

(9) a description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(B) A development agreement may provide that the entire development or any phase of it be commenced or completed within a specified period of time. The development agreement must provide a development schedule including commencement dates and interim completion dates at no greater than five year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 6-31-90, but must be judged based upon the totality of the circumstances. The development agreement may include other defined performance standards to be met by the developer. If the developer requests a modification in the dates as set forth in the agreement and is able to demonstrate and establish that there is good cause to modify those dates, those dates must be modified by the local government. A major modification of the agreement may occur only after public notice and a public hearing by the local government.

(C) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement.

(D) The development agreement also may cover any other matter not inconsistent with this chapter not prohibited by law.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-70. Agreement and development must be consistent with local government comprehensive plan and land development regulations.

A development agreement and authorized development must be consistent with the local government's comprehensive plan and land development regulations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-80. Law in effect at time of agreement governs development; exceptions.

(A) Subject to the provisions of Section 6-31-140 and unless otherwise provided by the development agreement, the laws applicable to development of the property subject to a development agreement, are those in force at the time of execution of the agreement.

(B) Subject to the provisions of Section 6-31-140, a local government may apply subsequently adopted laws to a development that is subject to a development agreement only if the local government has held a public hearing and determined:

(1) the laws are not in conflict with the laws governing the development agreement and do not prevent the development set forth in the development agreement;

(2) they are essential to the public health, safety, or welfare and the laws expressly state that they apply to a development that is subject to a development agreement;

(3) the laws are specifically anticipated and provided for in the development agreement;

(4) the local government demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement which changes, if not addressed by the local government, would pose a serious threat to the public health, safety, or welfare; or

(5) the development agreement is based on substantially and materially inaccurate information supplied by the developer.

(C) This section does not abrogate any rights preserved by Section 6-31-140 herein or that may vest pursuant to common law or otherwise in the absence of a development agreement.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-90. Periodic review to assess compliance with agreement; material breach by developer; notice of breach; cure of breach or modification or termination of agreement.

(A) Procedures established pursuant to Section 6-31-40 must include a provision for requiring periodic review by the zoning administrator, or, if the local government has no zoning administrator, by an appropriate officer of the local government, at least every twelve months, at which time the developer must be required to demonstrate good faith compliance with the terms of the development agreement.

(B) If, as a result of a periodic review, the local government finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the local government shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.

(C) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement; provided, that the local government has first given the developer the opportunity:

(1) to rebut the finding and determination; or

(2) to consent to amend the development agreement to meet the concerns of the local government with respect to the findings and determinations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-100. Amendment or cancellation of development agreement by mutual consent of parties or successors in interest.

A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-110. Validity and duration of agreement entered into prior to incorporation or annexation of affected area; subsequent modification or suspension by municipality.

(A) Except as otherwise provided in Section 6-31-130 and subject to the provisions of Section 6-31-140, if a newly-incorporated municipality or newly-annexed area comprises territory that was formerly unincorporated, any development agreement entered into by a local government before the effective date of the incorporation or annexation remains valid for the duration of the agreement, or eight years from the effective date of the incorporation or annexation, whichever is earlier. The parties to the development agreement and the municipality may agree that the development agreement remains valid for more than eight years; provided, that the longer period may not exceed fifteen years from the effective date of the incorporation or annexation. The parties to the development agreement and the municipality have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the

property had remained in the unincorporated territory of the county.

(B) After incorporation or annexation the municipality may modify or suspend the provisions of the development agreement if the municipality determines that the failure of the municipality to do so would place the residents of the territory subject to the development agreement, or the residents of the municipality, or both, in a condition dangerous to their health or safety, or both.

(C) This section applies to any development agreement which meets all of the following:

(1) the application for the development agreement is submitted to the local government operating within the unincorporated territory before the date that the first signature was affixed to the petition for incorporation or annexation or the adoption of an annexation resolution pursuant to Chapter 1 or 3 of Title 5; and

(2) the local government operating within the unincorporated territory enters into the development agreement with the developer before the date of the election on the question of incorporation or annexation, or, in the case of an annexation without an election before the date that the municipality orders the annexation.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-120. Developer to record agreement within fourteen days; burdens and benefits inure to successors in interest.

Within fourteen days after a local government enters into a development agreement, the developer shall record the agreement with the register of mesne conveyance or clerk of court in the county where the property is located. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-130. Agreement to be modified or suspended to comply with later-enacted state or federal laws or regulations.

In the event state or federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, the provisions of the agreement must be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-140. Rights, duties, and privileges of gas and electricity suppliers, and of municipalities with respect to providing same, not affected; no extraterritorial powers.

(A) The provisions of this act are not intended nor may they be construed in any way to alter or

amend in any way the rights, duties, and privileges of suppliers of electricity or natural gas or of municipalities with reference to the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

(B) This chapter is not intended to grant to local governments or agencies any authority over property lying beyond their corporate limits.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-145. Applicability to local government of constitutional and statutory procedures for approval of debt.

In the event that any of the obligations of the local government in the development agreement constitute debt, the local government shall comply at the time of the obligation to incur such debt becomes enforceable against the local government with any applicable constitutional and statutory procedures for the approval of this debt.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-150. Invalidity of all or part of Section 6-31-140 invalidates chapter.

If Section 6-31-140 or any provision therein or the application of any provision therein is held invalid, the invalidity applies to this chapter in its entirety, to any and all provisions of the chapter, and the application of this chapter or any provision of this chapter, and to this end the provisions of Section 6-31-140 of this chapter are not severable.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-160. Agreement may not contravene or supersede building, housing, electrical, plumbing, or gas code; compliance with such code if subsequently enacted.

Notwithstanding any other provision of law, a development agreement adopted pursuant to this chapter must comply with any building, housing, electrical, plumbing, and gas codes subsequently adopted by the governing body of a municipality or county as authorized by Chapter 9 of Title 6. Such development agreement may not include provisions which supersede or contravene the requirements of any building, housing, electrical, plumbing, and gas codes adopted by the governing body of a municipality or county.

HISTORY: 1993 Act No. 150, Section 1.

EXHIBIT B

Concept Plan

[See Attached Drawing.]

EXHIBIT C

Sec. 19. - MXU Mixed use development district.

1. *Purpose of district.* The purpose of the mixed use development (MXU) district is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new development; to facilitate the provision of infrastructure; and to preserve the natural and scenic features of open areas. This district is intended for the appropriate integration of a wide range of residential and non-residential uses. The district is intended for use in connection with developments where the town has determined that the quality of a proposed new development there under will be enhanced by flexibility in the planning process.
2. *Permitted uses.* Any use proposed by an applicant, and considered by the town council as compatible with the surrounding area, may be permitted within the project area upon approval by the town council. Thereafter, the uses (principal and accessory) permitted within the project area will be restricted to those agreed upon by the applicant and the town council and included in the approved development conditions (see section 5.D.3).

The mixture of permitted uses and the relationship between uses shall be determined by the applicant in accordance with the development standards set forth in this section or in an applicable development agreement between the town and the applicant. Where the project area consists of multiple contiguous parcels, the applicant may assign one use to a single parcel provided:

- The overall project area accommodates two or more uses;
- The applicant can demonstrate that the combination of the surrounding uses and the proposed uses create the mixture of uses suitable for the area and market conditions; and
- The area defined as mixed-use is well connected by vehicular and pedestrian accessways reinforcing the interrelationship between existing and proposed uses.

Note: For the purposes of this district, parcels shall be considered "contiguous" if they meet one or more of the following conditions: (1) they are located adjacent to one another, (2) they are separated only by a public right-of-way across which clearly defined safe pedestrian connections such as crosswalks, signalized intersections, or any other pedestrian facilities are provided or will be provided for pedestrian traffic, and/or (3) they lie within one-fourth-mile or less of each other along the same roadway (measured property line to property line) and provide clearly defined, safe pedestrian connections such as:

1. Crosswalks,
2. Signalized intersections, or
3. Other pedestrian facilities.

Accessory structures are permitted on all lots. Any accessory structure may be used for any use permitted in the project area provided such use is compatible with and subordinate to the use of the principal structure. No accessory use or structure shall be constructed before the principal use is constructed; however, residential accessory structures may be constructed up to six months prior to commencement of construction of the principal structure. All principal and accessory structures occupying the same lot shall be in single ownership. The following are permitted:

- A. *Residential accessory uses.* The following are permitted as accessory uses and or structures for residential areas provided that such separate structures should be clearly subordinate to the principal structure in size and location on the lot. They shall have a floor area no greater than 50 percent of the principal structure, shall not be served by a driveway separate from that serving the principal structure (excluding alley access), and shall be no taller than the principal structure as measured from average finished grade of the principal structure. If this accessory structure is

connected to or in addition to another accessory use or structure on the same lot (i.e. detached garage), the combined floor area shall be no greater than 75 percent of the principal structure.

1. Garages.
2. For-rent apartments, guest houses and employee quarters. One accessory dwelling unit per lot is permitted as an accessory apartment, which may be occupied by individuals renting the unit from the owner of the primary residence, employees of the owner and occupant of the primary residence (i.e., domestic help, security, etc.), or occasional guests of the occupant of the primary residence.
3. Customary home occupations.
 - a. A portion of the principal structure or separate structure on the same lot may be used only by the owner and occupant of the primary residence (or a member of the family dwelling in the primary residence) for a home occupation. The home occupation must be clearly incidental to the residential use of the principal structure and must not change the essential residential character of the dwelling. Use of a portion of the principal structure for this purpose must be limited to 25 percent of the principal structure, and no outside storage may be used in connection with the home occupation.
 - b. If a separate structure on the same lot is used for a home occupation, no portion of the principal structure may be used for a home occupation.
 - c. No chemical, mechanical or electrical equipment that is not normally a part of domestic or household equipment may be used primarily for commercial purposes, with the exception of medical, dental, and office equipment used for professional purposes. Machinery that causes noises or other interference in radio or television reception is prohibited. No internal or external alterations inconsistent with the residential character of the building will be permitted. No display of products may be visible from the street and only articles made on the premises may be sold on the premises. The maximum number of vehicles that may be parked (on- or off-street parking) by clients, patrons, or business-related visitors to any home occupation shall be limited to three at any given time.
 - d. No external evidence of the conduct of the home occupation, including commercial signs, shall be visible. The home occupation shall not generate traffic volumes or parking area needs greater than would normally be expected in the residential neighborhood. No equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot in the case of detached dwelling units, or outside the dwelling unit in the case of attached dwelling units.
- B. *Commercial accessory uses.* Commercial uses may include as accessory uses any commercial use, activity, and structure on the same site of lot that is operated primarily for the convenience of employees, clients, or customers of the principal use; It is located and operated as an integral part of the principal use and does not comprise a separate business use or activity.
- C. *Model homes/sales offices.* Model homes may be constructed within residential areas at the developer's discretion. Mobile temporary sales offices shall be allowed on site at the developer's discretion. Model homes with offices or mobile temporary sales offices and mobile temporary construction offices are limited to one per every 50 units in the master plan for the development.
3. *General provisions.*
 - A. *Relationship to the zoning ordinance.* Each proposal for development under the MXU district is anticipated to be unique. Except as provided by this section, an MXU district shall be subject to all of the applicable standards, procedures, and regulations in other sections of the zoning ordinance. The development conditions submitted as part of the zoning application (see section 5.D.3) shall supersede these regulations if in conflict therewith, unless otherwise prohibited by

law and shall be vested per the zoning ordinance in effect at the time of approval and Section 6-29-1560 of the South Carolina Code of Laws.

- B. *Platting requirements.* Platting requirements will be in accordance with article II, plat requirements, of chapter 32, subdivisions, of the Town of Fort Mill Municipal Ordinance.
- C. *Bonding requirements.* Bonding requirements will be in accordance with section 32.104, surety bond, article IV, required improvements, of chapter 32, subdivisions, of the Town of Fort Mill Municipal Ordinance.
- D. *Private covenants and restrictions required.*
 - 1. Covenants and restrictions for the property within an MXU district are required and must be recorded with the office of the county clerk of court prior to the approval of a plat or issuance of a building permit for a vertical building on the property. These restrictions will run with the land, so that if it is subdivided or developed in phases, then the covenants and restrictions shall still be enforced.
 - 2. Covenants and restrictions shall:
 - a. Be based on the conditions attached to the approved MXU district application;
 - b. Subject each owner or person taking title to land located within the development to the terms and conditions of the covenants and restrictions as well as any other applicable regulations;
 - c. Establish a Property Owners Association (POA) with mandatory membership for each owner or person taking title to land located within the development, and require the collection of assessments from owners in an amount sufficient to pay for its functions;
 - d. Provide for the ownership, development, management, and maintenance of any private open space, private community parking facilities, private community meeting spaces, or other common areas;
- E. *Design guidelines.* Design guidelines that are developed by the applicant specifically for the development are not required; however, should such guidelines be developed, they shall not be in conflict with the regulations set forth in the applicable codes or the conditions or development agreement attached to the approved MXU district application. If developed, they shall ensure consistent character/theme throughout the development by addressing key elements such as building form and orientation, landscape, signage and site furnishings to guide the development for the life of the project. For properties that include a residential component, a private Design Review Board shall be established and operated by the POA to review proposed development for compliance with the guidelines prior to a builder, contractor or property owner submitting plans to the municipality for a building permit. For initial construction, this design review board may be composed of members appointed by the project developer(s), with membership transferring to representatives of the POA in accordance with the approved rules and agreements of the POA.

4. *Development standards.*

A. *Dimensional requirements for lots.*

Development Types	Lot Area (min. ft.)	Lot Width (min. ft.)	Front Yard (min. ft.)	Side Yard (min. ft.)	Rear Yard (min. ft.)	Height (max.)	Impervious Area (max.)
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Residential

Cottage	2,400	30	5	5	10 ¹	45	80%
Estate	7,200	90	5	10	10 ¹	45	80%
Townhouse/Rowhouse	1,100/unit	14/unit	0/5 ²	0/5 ³	10 ¹	45 ⁴	90%
<i>Multifamily</i>	1,100/unit	15/unit ⁵	0/5 ²	0/5 ³	10 ¹	60 ⁴	100%
<i>Commercial/Office</i>							
Mixed Use/Single Use	0	20	0/5 ²	0/5 ³	10 ¹	60 ⁴ /NA ⁵	100%
<i>Civic/Institutional</i>							
All structures	0	30	0/5 ²	0/5 ³	10 ¹	60 ⁴ /NA ⁵	100%
<i>Industrial</i>							
All structures	20,000	100	15	20	30	60 ⁴	75%

Notes:

¹The required rear yard depth shall be reduced to five feet when abutting an alley or dedicated open space. Appurtenances shall be allowed to extend into required rear yard as provided in section B, "appurtenances in required yards", below.

²Buildings may provide a front yard of zero (building drawn up to sidewalk), otherwise, the minimum yard depth shall be five feet to provide adequate space for landscaping, a courtyard, or other amenity area. Appurtenances shall be allowed to extend into required front yard as provided in section B, "appurtenances in required yards", below.

³A side yard of five feet must be used when the adjoining property is occupied by a detached residential unit. In all other situations, a side yard of zero may be used. However, if a yard is provided, the minimum depth shall be 5 feet to provide access between buildings. Appurtenances shall be allowed to extend into required side yard as provided in section B, "appurtenances in required yards", below.

⁴Height may be above the maximum height indicated, provided all portions of the structure exceeding the height limit indicated shall be stepped back an additional one foot from the adjoining property line for each additional foot in excess.

⁵ The maximum height requirement shall not apply to commercial, office, civic or institutional structures erected on any parcel which lies wholly or in part within 1,500 linear feet of the outer edge of the Interstate 77 right-of-way.

⁶In order provide increased design flexibility for multifamily projects, the lot width requirement shall only apply to the first five units. The minimum lot width required for a multifamily project with more than five units is 75 feet.

B. *Appurtenances in required yards.*

1. Steps that provide direct access to the entrance of a principal structure may extend 100 percent into a required front yard to the property (right-of-way) line.
2. Balconies and awnings may extend up to 50 percent into a required front, side, or rear yard, provided a minimum vertical clearance of nine feet measured from the finished grade is maintained.
3. Other appurtenances, such as a stoop, open porch, or bay window may extend up to five feet into the required front yard, provided such features do not impede pedestrian circulation or extend more than 25 percent into the required yard. Such appurtenances may extend up to 25 percent into a required side or rear yard.
4. Carports erected as stand alone structures or attached to the principal structure shall not be considered an appurtenance. Such carports shall be located at least 15 feet behind the front thermal wall of the principal structure and shall adhere to all other setback requirements for accessory structures.

C. *General lot development standards.*

1. Lots that have frontage on more than one street shall only have one front setback. The primary street right-of-way from which the front setback is measured shall be determined when the building location and orientation is established.
2. Lots do not have to front on a public street as long as sufficient emergency access is provided, as determined by the fire marshall, and access to the lot is provided.

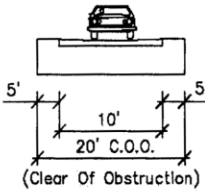
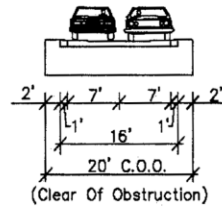
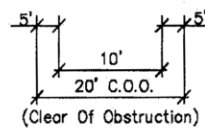
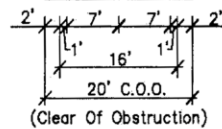
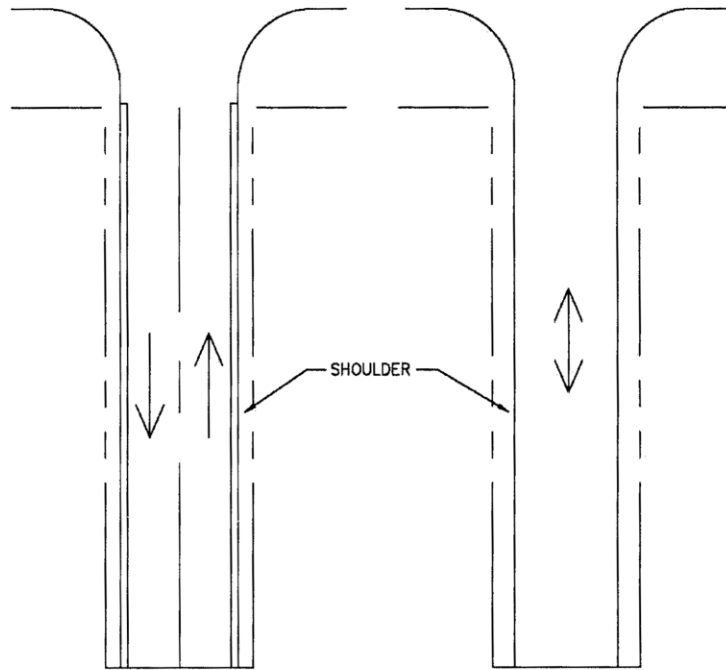
D. *Building height.* Building heights shall be measured as the vertical distance measured from the point along the building foundation equal to the average finished grade (exterior, around the foundation) to the midpoint point of the roof structure, excluding the following: chimneys, steeples, flagpoles, public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment, water tanks or similar structures.

E. *Sidewalks.* Sidewalks shall adhere to the standards set forth in section 32-108 of the ordinance, except as otherwise provided below.

1. Minimum width: Five feet. On blocks intended for predominately commercial development, additional sidewalk width may be required to accommodate street furniture, outdoor seating areas, or other obstructions to pedestrian mobility. In no case may the minimum passable area of a sidewalk be less than four feet in width (this accommodates a wheelchair and one pedestrian).
2. At minimum sidewalks are required on one side of the street. The reduction or deletion of sidewalks along any roads may be approved administratively by the town.
3. If sidewalks are to be maintained by the town, the sidewalks must be constructed within the rights-of-way of public streets or within public easements, and/or public or private utility easements with approval of the agency holding the easement.
4. If sidewalks are not located within rights-of-way, then adequate easement of a minimum of five feet in width adjacent to the rights-of-way of new streets shall be reserved to allow for sidewalks on all public streets should the town have a future need for such sidewalks. The zoning administrator may waive this requirement if, upon review of the plan of development, the administrator makes a determination that adequate pedestrian circulation is provided.
5. The town shall require the subdivider to construct sidewalks on-site to connect with existing or proposed sidewalks and in other areas where sidewalks are needed for pedestrian circulation. All developments adjoining vacant property shall extend sidewalks within the development to property lines as "stub-outs" in locations where logical and practical

connections may be made in the future to extend such sidewalks into adjacent development. Where adjacent properties have been developed and have provided sidewalk stub-outs that adjoin the development, the developer shall connect to such stub-outs, unless the requirement is waived administratively by the town due to circumstances that make such connections impractical.

- F. *Streets*. Street shall adhere to the standards set forth in the chapter 32, article III, section 32-72 of the ordinance, except as otherwise provided below.
1. Intersections.
 - a. Offset distances between intersections of streets (excluding driveways and alleys) are to be avoided. Intersections which cannot be aligned should be separated by a minimum of distance of 50' from centerline to centerline. The actual intersection separation shall be determined through detailed review of proposed street design standards, design speeds, and urban design characteristics. These actual intersection separations (including reductions below the 50 feet separation) shall be specified in the approved development conditions.
 - b. Angle of intersections shall be a minimum of 45 degrees.
 2. Maximum grade on all streets constructed within the project area shall not exceed 12 percent without administrative approval.
 3. All developments adjoining vacant property shall extend streets within the development to property lines as "stub-outs" in locations where logical and practical connections may be made in the future to extend such streets into adjacent development. Stub-out locations shall be identified on site plans and construction drawings. Where adjacent properties have been developed and have provided street stub-outs that adjoin the development, the developer shall connect to such stub-outs, unless the requirement is waived administratively by the town due to circumstances that make such connections impractical.
 4. New streets may, as an alternative to the town's street design standards, be designed in accordance with the standards set forth by the Institute of Transportation Engineers in Traditional Neighborhood Development Street Design Guidelines, An ITE Recommended Practice or substantiated by other technical methods and practices submitted to and approved by the town and recorded in the development agreement for each development utilizing the MXU provisions.



POSTED SPEED 10 MPH
 SUPERELEVATION NONE
 MINIMUM CURB RADIUS 10' (tapered apron)
 PAVEMENT WIDTH 16'
 DRAINAGE CLOSED/INVERTED CROWN
 CENTERLINE RADIUS N/A
 BIKE LANE NONE
 PARKING NONE
 "K" VALUE NONE
 SIDEWALK NONE
 CURB RIBBON

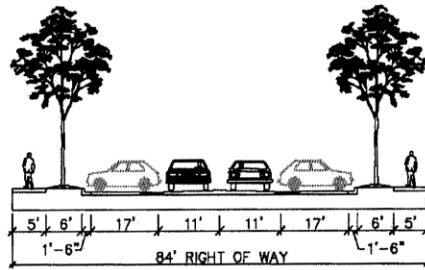
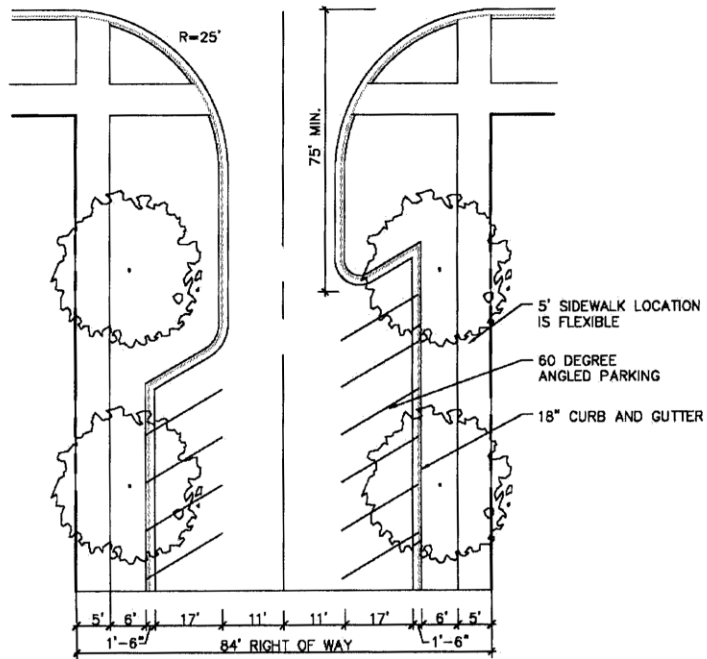
POSTED SPEED 10 MPH
 SUPERELEVATION NONE
 MINIMUM CURB RADIUS 10' (tapered apron)
 PAVEMENT WIDTH 10'
 DRAINAGE CLOSED/INVERTED CROWN
 CENTERLINE RADIUS N/A
 BIKE LANE NONE
 PARKING NONE
 "K" VALUE NONE
 SIDEWALK NONE

ALLEY (SECONDARY ACCESS DRIVE)

EXHIBIT 1

**TOWN OF FORT MILL,
SOUTH CAROLINA**

Issued 04/27/06
 Revised 00/00/00
 Scale NTS



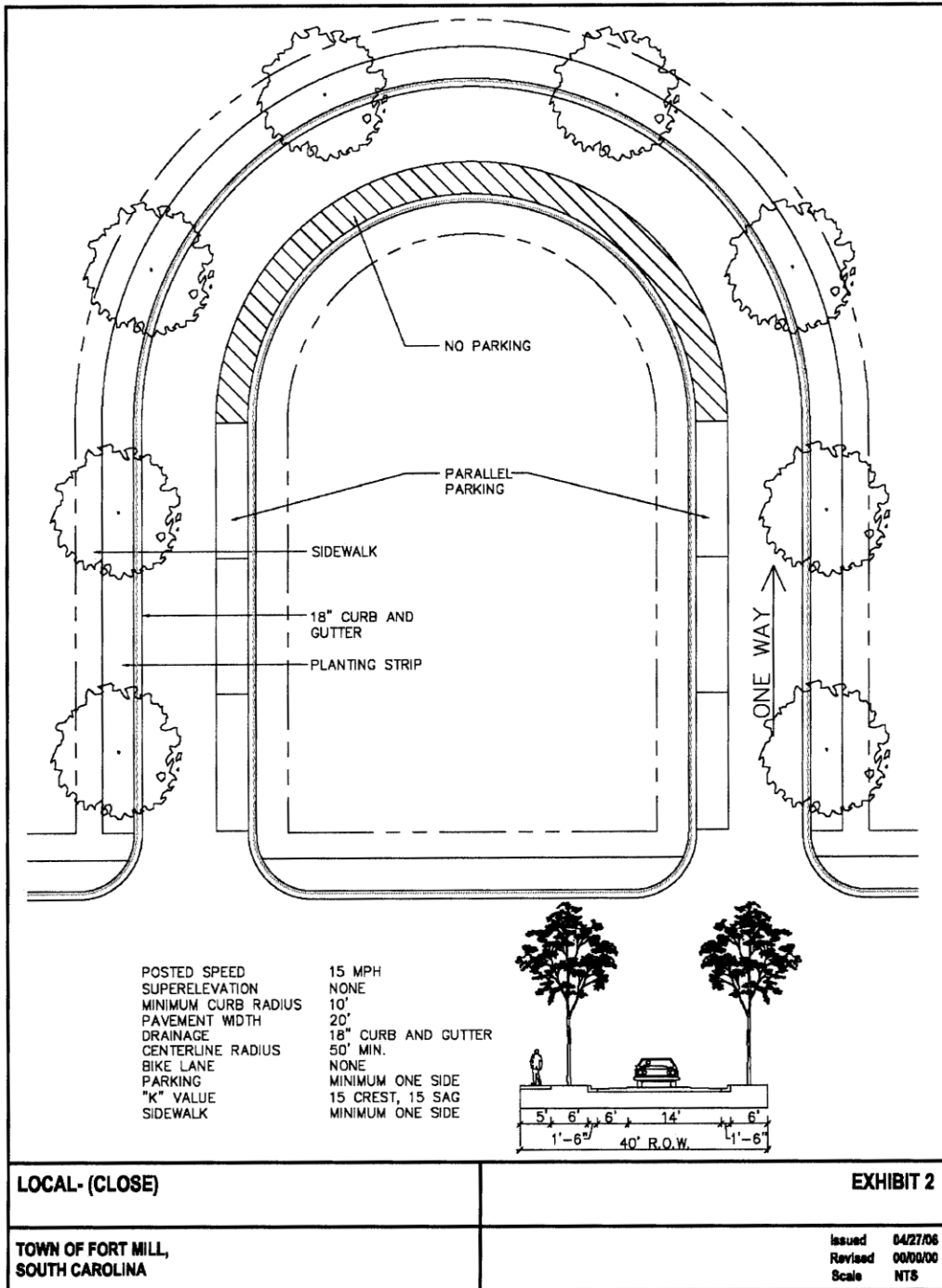
POSTED SPEED	20 MPH
SUPERELEVATION	NONE
MINIMUM CURB RADIUS	10'
PAVEMENT WIDTH	22' MINIMUM, 56' MAXIMUM
DRAINAGE	18" CURB AND GUTTER
CENTERLINE RADIUS	50' MIN.
BIKE LANE	NONE
PARKING	NONE, ONE OR BOTH SIDES
"K" VALUE	15 CREST, 15 SAG
SIDEWALK	BOTH SIDES

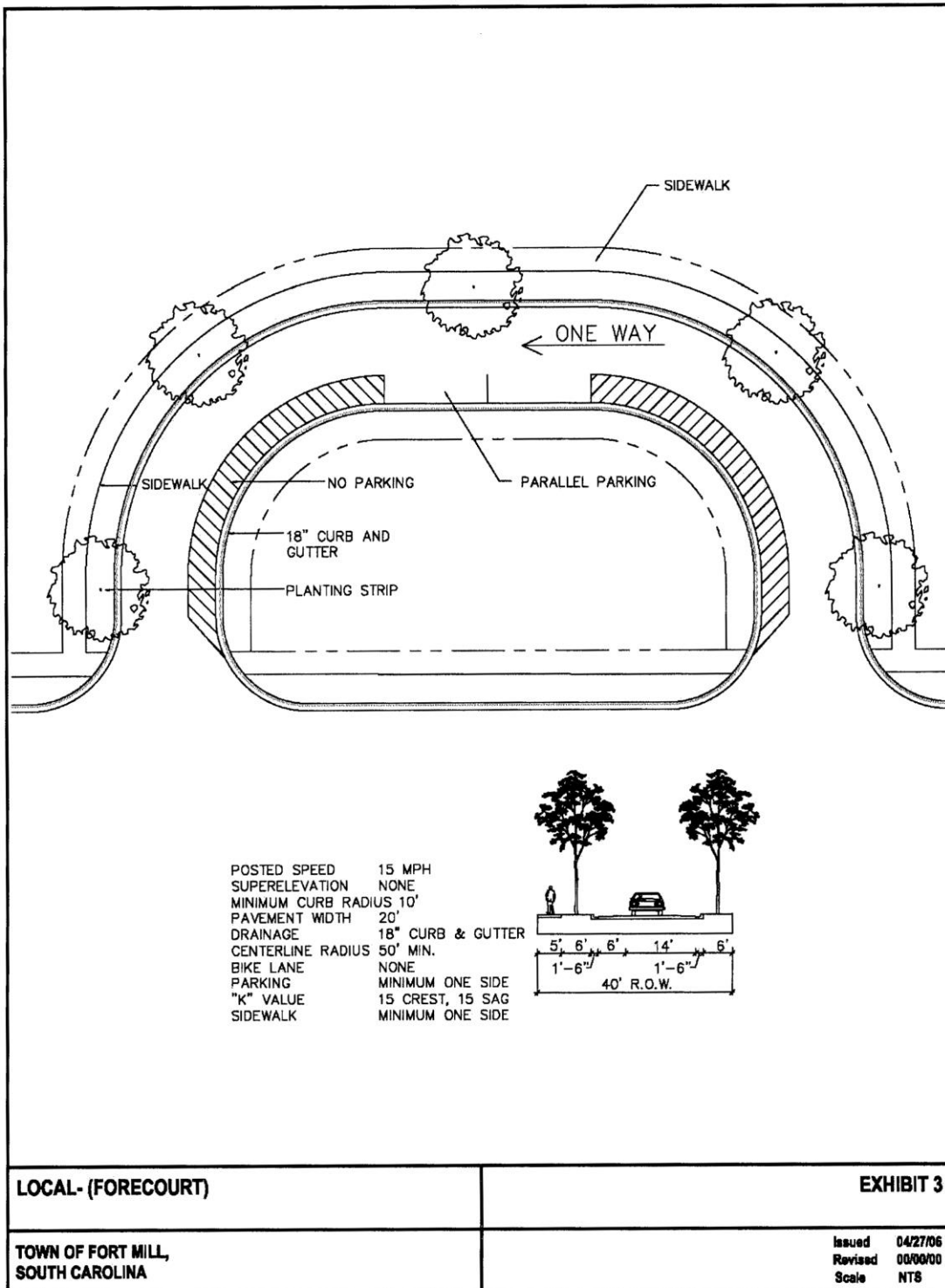
ANGLED PARKING IN RIGHT OF WAY

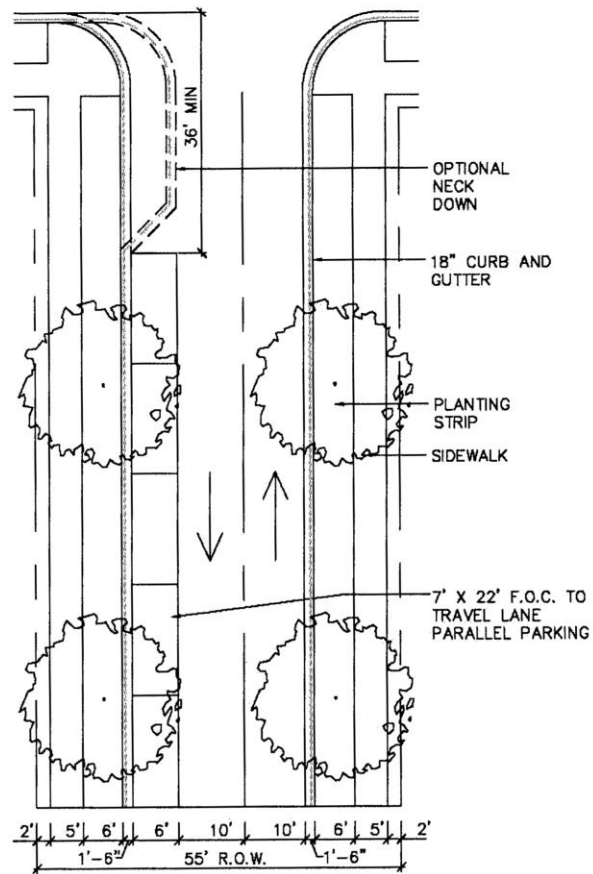
EXHIBIT 8

TOWN OF FORT MILL,
SOUTH CAROLINA

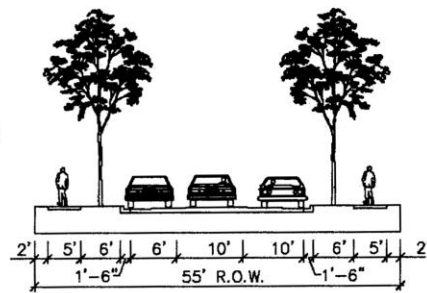
Issued 04/27/06
Revised 00/00/00
Scale NTS







POSTED SPEED 15 MPH
 SUPERELEVATION NONE
 MINIMUM CURB RADIUS 10' (25' IF NO ON-STREET PARKING)
 PAVEMENT WIDTH 26' MINIMUM, 30' MAXIMUM
 DRAINAGE 18" CURB AND GUTTER
 CENTERLINE RADIUS 50' MIN.
 BIKE LANE NONE
 PARKING OPTIONAL
 "K" VALUE 15 CREST, 15 SAG
 SIDEWALK MINIMUM ONE SIDE

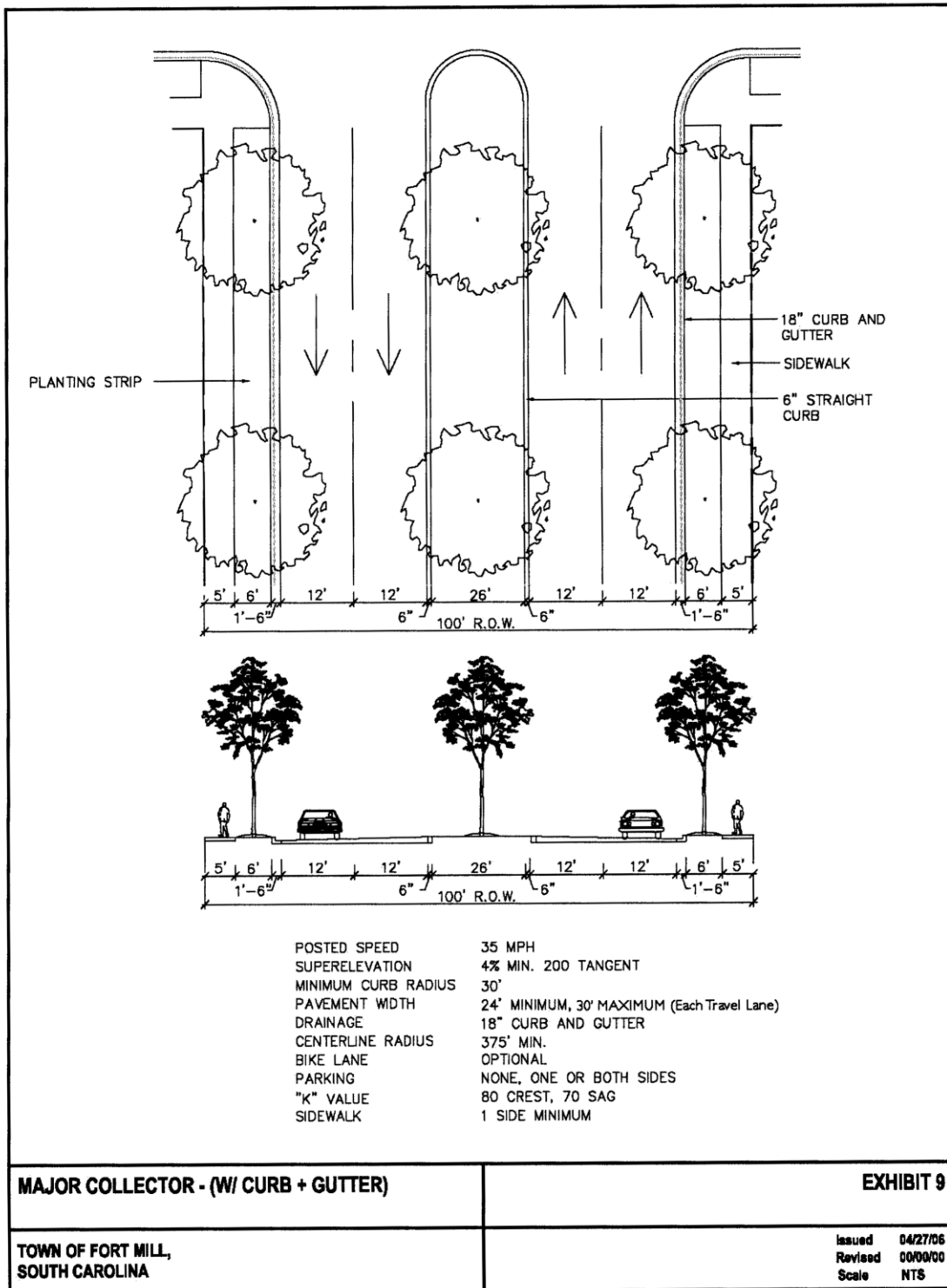


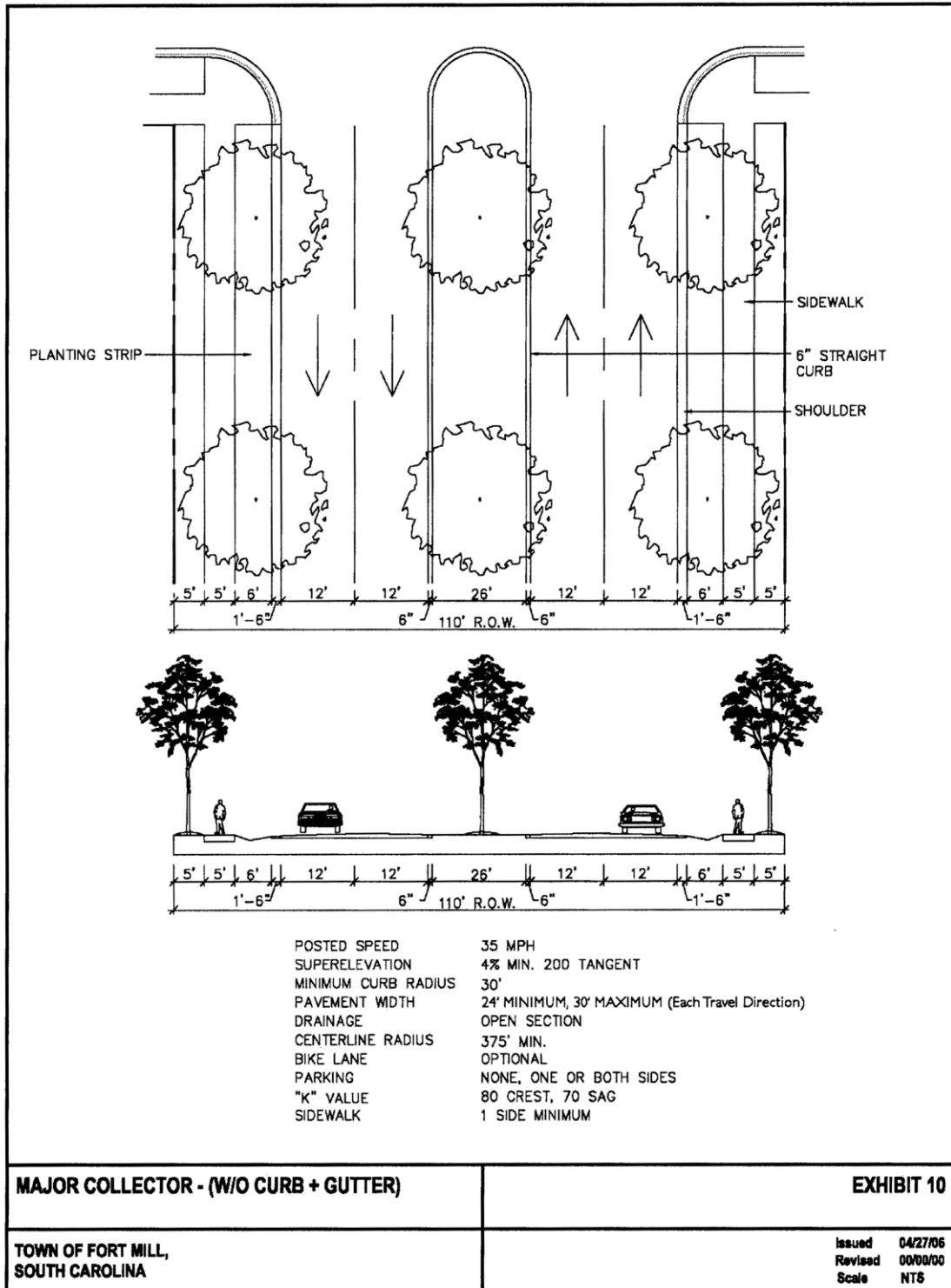
LOCAL - (PARKING ON ONE SIDE)

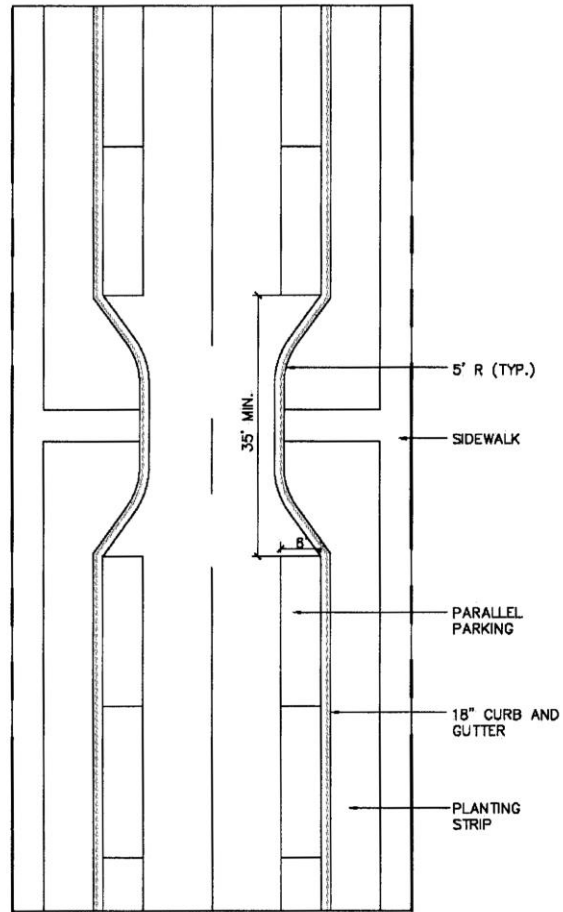
EXHIBIT 5

TOWN OF FORT MILL,
SOUTH CAROLINA

Issued 04/27/06
 Revised 00/00/00
 Scale NTS





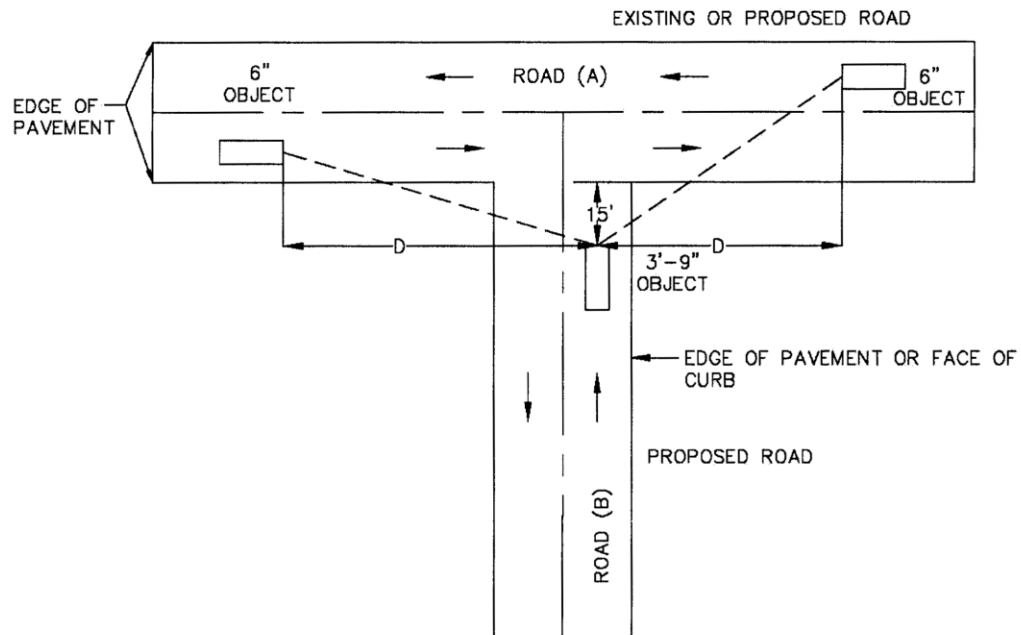


MID-BLOCK CHOKER

EXHIBIT 11

**TOWN OF FORT MILL,
SOUTH CAROLINA**

Issued 04/27/06
Revised 00/00/00
Scale NTS



NOTES:

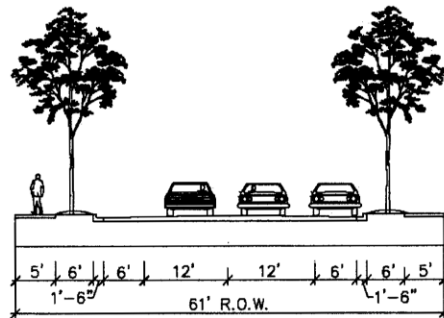
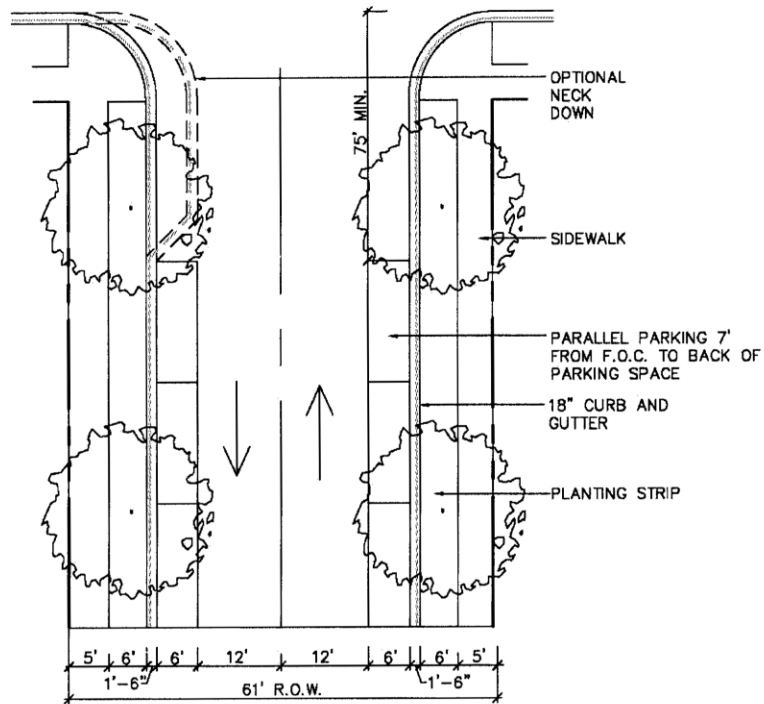
1. DISTANCE "D" IS CALCULATED AT 10 TIMES THE POSTED SPEED LIMIT (45 MPH X 10 = 450')
2. THE DISTANCE IS MEASURED 15' FROM THE EDGE OF PAVEMENT OR FACE OF CURB @ THE CENTER OF THE TRAVEL LANE TO THE CENTER OF THE ON COMING TRAVEL LANE IN BOTH DIRECTIONS.

MINIMUM SIGHT TRIANGLES/DISTANCES

EXHIBIT - 14

TOWN OF FORT MILL
YORK COUNTY, SOUTH CAROLINA

Issued 04/27/06
Revised 00/00/00
Scale NTS



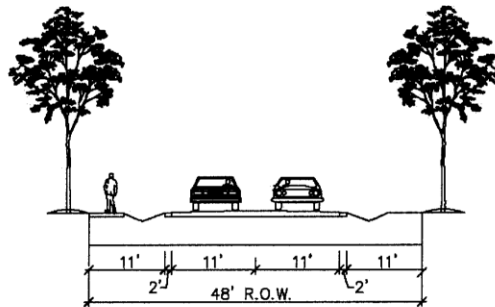
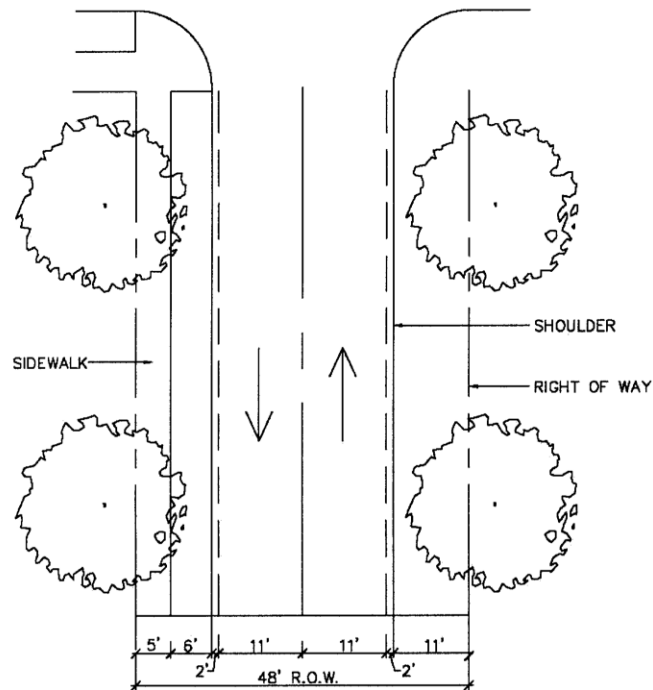
POSTED SPEED	20 MPH
SUPERELEVATION	NONE
MINIMUM CURB RADIUS	18' (28' IF NO ON STREET PARKING)
PAVEMENT WIDTH	24' MINIMUM, 36' MAXIMUM
DRAINAGE	18" CURB AND GUTTER
CENTERLINE RADIUS	150' MIN.
BIKE LANE	OPTIONAL
PARKING	NONE, ONE OR BOTH SIDES
"K" VALUE	15 CREST, 20 SAG
SIDEWALK	1 SIDE MINIMUM

MINOR COLLECTOR - (W/ CURB + GUTTER)

EXHIBIT 6

**TOWN OF FORT MILL,
SOUTH CAROLINA**

Issued 04/27/06
Revised 00/00/00
Scale NTS



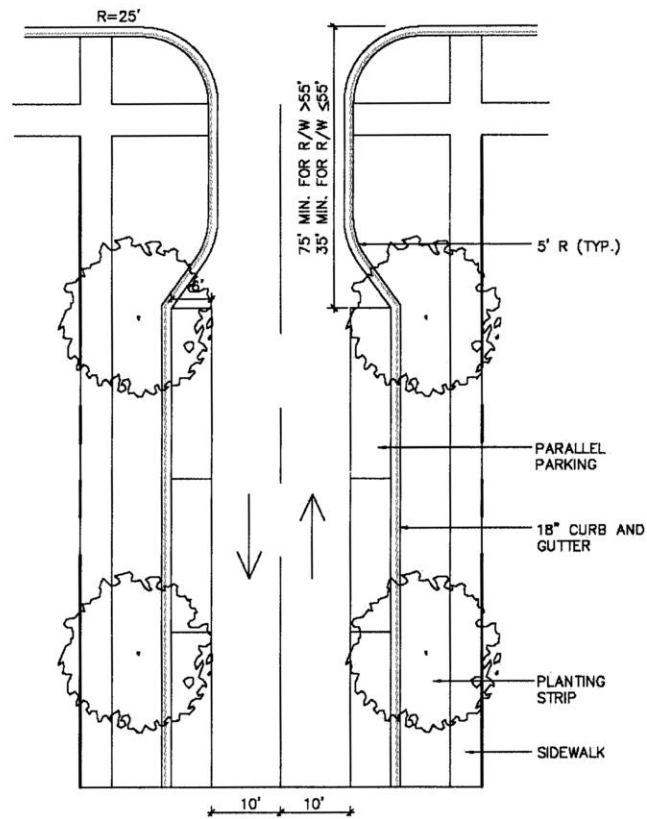
POSTED SPEED	20 MPH
SUPERELEVATION	NONE
MINIMUM CURB RADIUS	28'
PAVEMENT WIDTH	22' MINIMUM, 34' MAXIMUM
DRAINAGE	OPEN SECTION
CENTERLINE RADIUS	150' MIN.
BIKE LANE	OPTIONAL
PARKING	NONE, ONE OR BOTH SIDES
"K" VALUE	15 CREST, 20 SAG
SIDEWALK	MINIMUM ONE SIDE

MINOR COLLECTOR - (W/O CURB + GUTTER)

EXHIBIT 7

TOWN OF FORT MILL,
SOUTH CAROLINA

Issued 04/27/06
Revised 00/00/00
Scale NTS

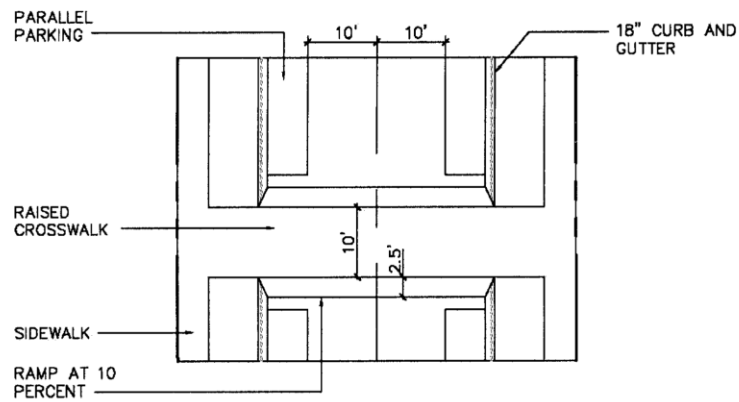


NECK DOWN

EXHIBIT 12

TOWN OF FORT MILL,
SOUTH CAROLINA

Issued 04/27/06
Revised 00/00/00
Scale NTS

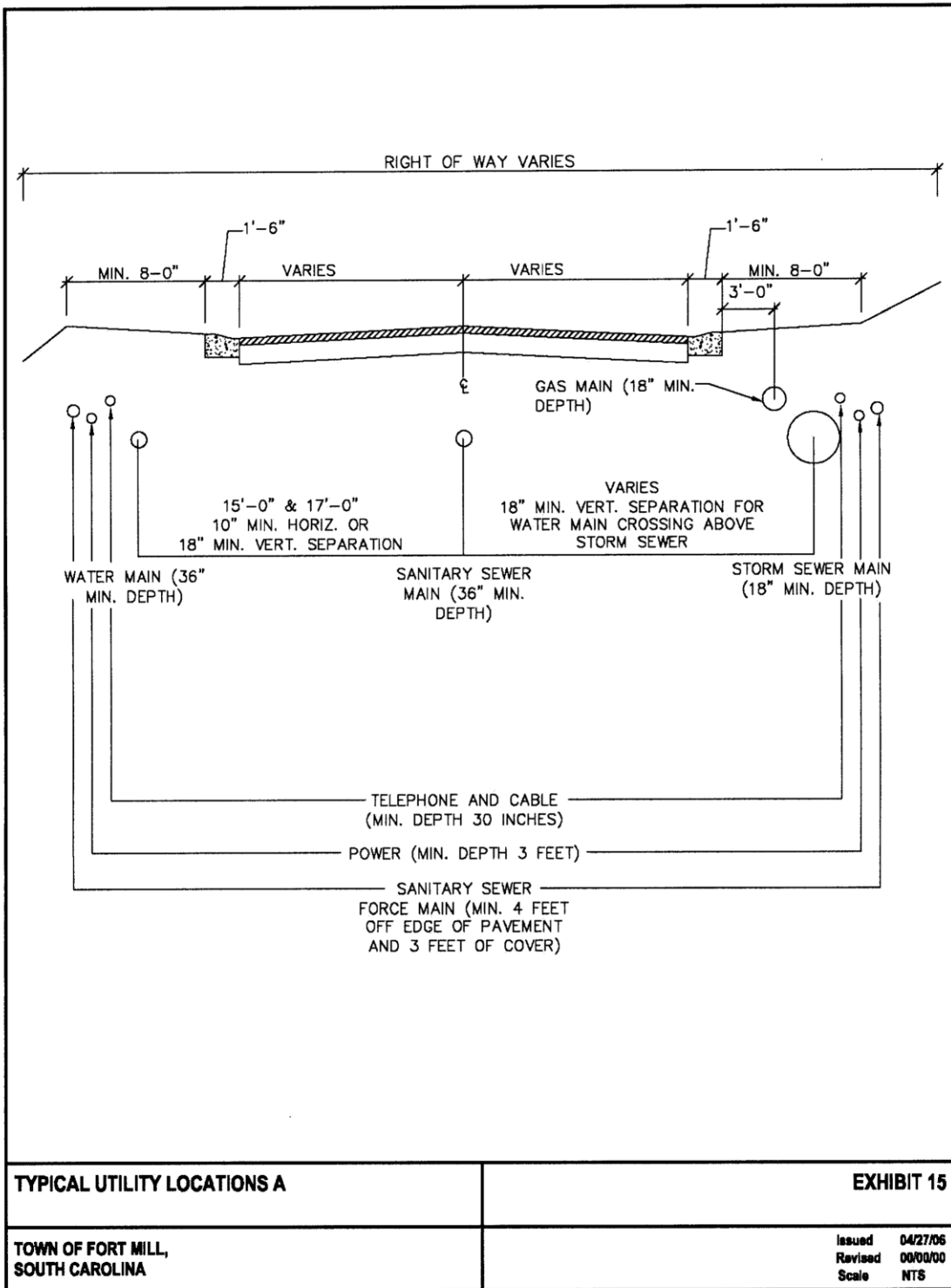


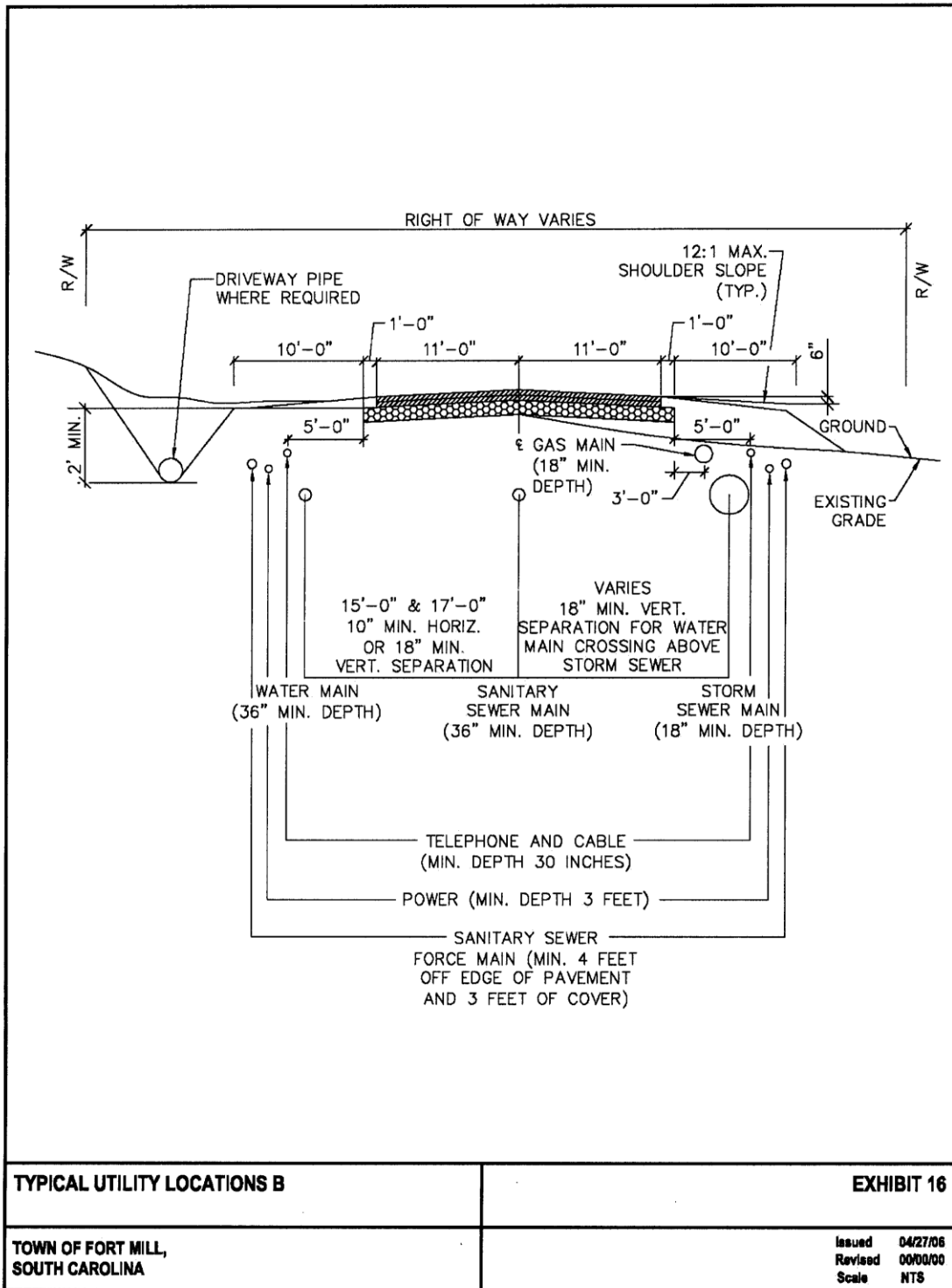
RAISED CROSSWALK

EXHIBIT 13

**TOWN OF FORT MILL,
SOUTH CAROLINA**

Issued 04/27/06
Revised 00/00/00
Scale NTS





5. Minimum vertical curves.
 L = Minimum length of curve in feet;
 A = Algebraic difference in grade in percent; and
 K = Rate of vertical curvature shown in table.

[Need K Values for Design speeds of 10 and 15 mph.

K Values Stopping Sight Distance

<i>Design Speed (MPH)</i>	Minimum		Desirable		Decision Sight Distance K	Crest	Sag
	Crest	Sag	Passing Sight Distance K				
(1)	(2)	(3)	(4)		(5)	(6)	(7)
10							
15							
20 ¹	10	20	10		20	210	120
25 ¹	20	30	20		30	300	190
30	30	40	30		40	400	270
35	40	50	50		50	550	370
40	60	60	80		70	730	490
45	80	70	120		90	890	625
50	110	90	160		110	1,050	750
55	150	100	220		130	1,230	1,000
60	190	120	310		160	1,430	1,200
65	230	130	400		180	1,720	1,475
70	290	150	540		220	2,030	1,950

Note:

¹Design speed should be equal to posted speed for speeds of 25mph or less.

Road centerline K values for vertical curves should be maximized in order to follow existing topography as closely as possible. This will enable the greatest amount of tree save possible within any development area.

G. *Parking and loading.*

1. *Loading.* Off-street loading shall be required for any uses that dispense or acquire goods. The minimum number of spaces to be provided shall be determined by the zoning administrator. No off-street loading space shall be required for any tenant space less than 25,000 square feet of gross floor area.
2. *Off-street parking.* All off-street parking shall be provided in accordance with the off-street parking requirements set forth in article I, section 7, subsection I. of the ordinance, except as otherwise provided below.
 - a. Off-street parking must be provided on every lot on which any of the following uses are hereafter established. The number of parking spaces provided will be at least as great as the number specified in article I, section 7, subsection I. of the zoning ordinance for the particular use(s). When application of the provision results in a fractional space requirement, the next larger requirements will prevail. The zoning administrator may vary this requirement resulting in a 10% decrease in the minimum number required. Up to 50% of the required parking spaces may be provided by on-street parking in conformance with section 4.G.7.
 - 1) The parking space requirements for a use not specifically listed will be the same as for a listed use of similar characteristics of parking demand.
 - 2) For uses having different parking requirements and occupying the same building or parcel, the minimum number of required spaces shall be the sum total of all the individual uses. For developments of portions of developments within the same mixed use development district designed as a single, coordinated project having at least 50,000 square feet of gross floor area, the minimum number of required spaces shall be one space for every 250 square feet of gross floor area designed for nonresidential use and occupancy.
 - 3) Shared parking is allowed and is encouraged in circumstances where the parking would be within 1,200 feet of each respective use.
 - 4) Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit a shared parking analysis to the zoning administrator that clearly demonstrates the feasibility of shared parking. The study must be provided in a form established by the zoning administrator. It must address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.
 - 5) A shared parking plan shall be enforced through written agreement among all owners of record and included in the development agreements filed with the town. The owner of the shared parking area shall enter into a written agreement with the town with enforcement running to the town providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that the owner agrees to bear the expense of recording the agreement and such agreement shall bind his or her heirs, successors, and assigns. An attested copy of the agreement between the owners of record shall be submitted to the zoning administrator for recordation in a form established by the town attorney. Recordation of the agreement must take place before issuance of a building permit or certificate of occupancy for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided on-site. The town shall void

the written agreement if other off-street facilities are provided in accord with these zoning regulations.

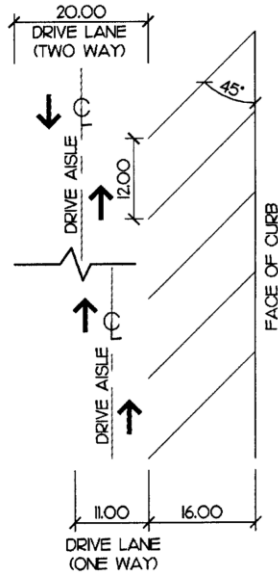
3. *Handicap accessible parking.* Handicap accessible parking spaces shall be provided in accordance with the table below:

Number of Required Accessible Parking Spaces*

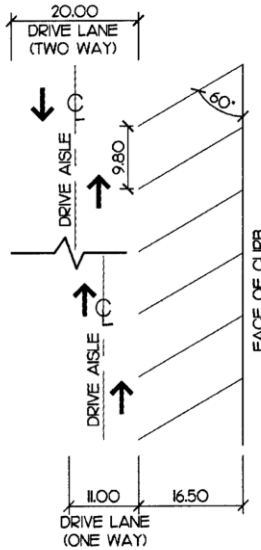
Total Spaces Required	Required Number to be Reserved for Handicapped
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of Total
Over 1,000	20; plus 1 for each 100 over 1,000

* Note: The number of Accessible Spaces shall be calculated based on the total number of required parking spaces.

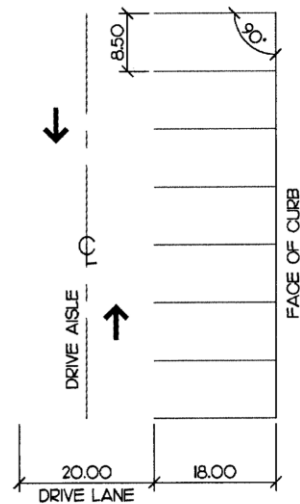
4. *Minimum parking dimensions.*



MINIMUM 45 DEGREE PARKING

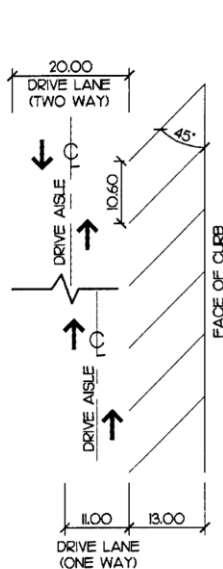


MINIMUM 60 DEGREE PARKING

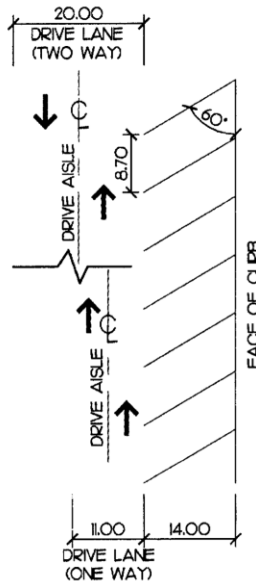


MINIMUM 90 DEGREE PARKING

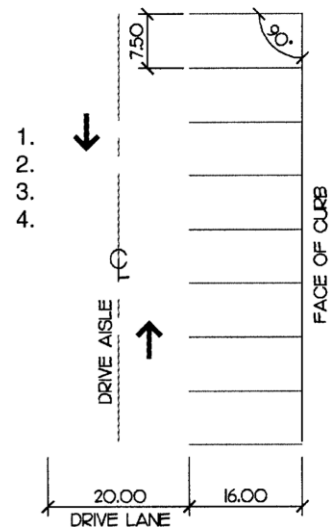
5. *Compact spaces.* In parking lots having 20 or more spaces, up to 25 percent of the total required spaces may be provided as compact spaces. Such spaces shall have a minimum dimensions as follows:



COMPACT 45 DEGREE PARKING



COMPACT 60 DEGREE PARKING



COMPACT 90 DEGREE PARKING

6. *Parking lot landscaping.* Landscape islands within parking areas shall be no less than the minimum dimensions of a full-size parking space (measured from edge of pavement or

back of curb, if such islands are defined by curb). Islands shall be installed every 25 spaces to include a 2.5" caliper tree (minimum). No parking space shall be further than 110 feet from a landscape island. All trees planted in landscape islands shall adhere to the standards set forth in chapter 38, division 3, tree control of the ordinance.

7. *On-street parking.* A minimum of 50 percent of the required off-street parking must be provided on site. Where on-street parking is available or provided as part of the development, on-street parking spaces may account for up to 50% of the required spaces, provided:
 - a. A key map is provided that delineates the location of allocated on-street spaces for a designated parcel or use.
 - b. The on-street parking must be located within 1,200 feet of the primary entrance of a use.
 - c. On-street parallel parking spaces shall be 7' x 20' measured from the face of curb (or edge of pavement, if curb does not exist).
 - d. On-street diagonal parking with a 60-degree angle or less shall have a minimum travel lane width of 11 feet.
- H. *Dedicated open space.* Dedicated open space shall be provided in accordance with the following standards:
 1. A minimum of 20 percent of the gross land area of the project will be dedicated open space. A density bonus over and above the density otherwise allowed in the MXU district may be approved by the town council provided that the applicant increases the percentage of the total project area to be devoted to dedicated open space. This bonus may be granted only if specifically requested by the applicant. Any such bonus shall consist of a one percent increase in the allowable density for every one percent of land area devoted to dedicated open space unless town approves an alternative.
 2. Dedicated open space land shall be shown on the preliminary plat and shall be labeled to specify that the land has been dedicated to open space purposes. The plat shall specify that the open space land shall not be further subdivided or developed and is permanently reserved for open space purposes. The open space shall be conveyed by the applicant as a condition of plat approval and may be conveyed by any of the following means as determined by the town council:
 - a. Deeded in perpetuity to the Town of Fort Mill;
 - b. Reserved for common use or ownership of all property owners within the development by covenants in the deeds approved by the town attorney. A copy of the proposed deed covenants shall be submitted with the application;
 - c. Deeded in perpetuity to a private, non-profit, tax-exempt organization legally constituted for conservation purposes under terms and conditions that ensure the perpetual protection and management of the property for conservation purposes. A copy of the proposed deeds and relevant corporate documents of the land trust shall be submitted with the application;
 - d. Deeded to a property owner's association within the development upon terms and conditions approved by the town attorney that will ensure the continued use and management of the land for the intended purposes. If this option is selected, the formation and incorporation by the applicant of one or more appropriate property owners' associations shall be required prior to plat approval. A copy of the proposed property owner's deed and the by-laws and other relevant documents of the property owner's association shall be submitted with the application. The following shall be required if open space is to be dedicated to a property owners' association:

- 1) Covenants providing for mandatory membership in the association and setting forth the owner's rights, interests, and privileges in the association and the common land, must be included in the deed for each lot or unit;
 - 2) The property association shall have the responsibility of maintaining the open space and operating and maintaining recreational facilities;
 - 3) The association shall have the authority to levy charges against all property owners to defray the expenses connected with the maintenance of open space and recreational facilities;
 - 4) The applicant shall maintain control of dedicated open land and be responsible for its maintenance until development sufficient to support the association has taken place.
3. The following may be counted towards required dedicated open space: conservation lands, natural areas, formal greens, plazas and courtyards, trails, buffers held in common ownership, and parks and recreation areas, including ball fields, golf courses (excluding vertical structures: clubhouse and maintenance facilities), tennis and basketball courts, playgrounds, and other areas used for active or passive recreation.
 4. Open space to be dedicated to the town shall have shape, dimension, character, location and topography to ensure appropriate public access, and to accomplish the following open space purposes:
 - a. Natural resource conservation;
 - b. Wetland and water course conservation;
 - c. Selective forestry;
 - d. Wildlife habitat;
 - e. Recreation;
 - f. Civic purposes; and
 - g. Scenic preservation.
 5. Dedicated open space features that are not dedicated to the town may be open to the general public or restricted to the residents of the development.
 6. One hundred percent of all dedicated open space may be comprised of land characterized as conservation lands in article II, section 7, subsection 3.D) of the zoning ordinance, provided such lands are integrated into the development and serve as an amenity for the development;
 7. Streets and other impervious surfaces shall be excluded from the calculation of the minimum dedicated open space requirement; however, lands occupied by bike paths, landscaped grounds, or similar common recreational development may be counted as dedicated open space provided that impervious surfaces constitute no more than ten percent of the total required open space;

Commentary: For example, if the project is 100 acres, then at least 20 acres (or 20 percent) of the project must be set aside as dedicated open space. Of these 20 acres of dedicated open space, no more than two acres (ten percent) can be impervious surfaces.
 8. Up to 25 percent of this requirement may be satisfied with land covered by water or by stormwater detention or retention basins if the town determines that such a water body or basin is suitable for the purposes set forth in article I, section 1.
 9. Dedicated open space shall include the land necessary to provide access to the open space;

10. The dedicated open space shall not be included in subdivision lots or in lot size calculations.
11. The applicant shall convey or restrict the open space land by a deed instrument reviewed and approved by the Fort Mill Town Attorney to ensure that the land will be held and managed in perpetuity for open space purposes and shall not be further developed.
 - a. As an alternative to providing all open space on site in accordance with the requirements above and with the town's consent, the developer may choose to provide up to 50 percent of the required open space utilizing one of the following options:
 - b. Off-site parcels within town limits may be used to meet this requirement provided the land meets the open space purposes as determined by the town.
 - c. Fees-in-lieu may be paid to the town for land acquisition for open space purposes.
- I. *Signage.* A proposed project signage package shall be provided for approval by the town. All signs shall meet the requirements of article III, signs of the ordinance, with the following exceptions:
 1. Project identification signs of up to 360 square feet of text area per sign shall be permitted at all project entrances that provide ingress/egress from a major collector road, arterial road, public streets, adjoining streets, minor streets, marginal access streets with major thoroughfares, intersections, and dead-ends, provided the following standards are met:
 - a. Such copy area shall be incorporated into an architectural feature such as a wall and/or entryway monumentation that will not exceed 18 feet in height.
 - b. Up to two such signs per individual project entrance shall be permitted. Each project is limited to one entrance of this type per 1,000 linear feet of frontage along a major arterial road.
 - c. Sign structures may consist of brick, stone, metal or similar mixture of materials at the developer's discretion that match certain architectural characteristics of the development and will be integrated in accordance with the approved an overall sign package.
 - d. Final design of these features will be submitted for approval by town in conjunction with a proposed signage package for the overall project.
 2. Off-site/off-premises signs shall be permitted to give visibility to businesses within the development, provided the following standards are met:
 - a. Sign structures may consist of brick, stone, metal or similar mixture of materials at the developer's discretion that match certain architectural characteristics of the development and will be integrated in accordance with the approved overall sign package.
 - b. Final design of these features will be submitted for approval by town in conjunction with a proposed signage package for the overall project.
- J. *Landscaping.* Tree planting requirements shall be as follows:
 1. Internal planting requirements for lots, excluding single-family development. Planting areas. Whenever the impervious cover exceeds 10,000 square feet, a planting area equal to ten percent of the total impervious surface must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of one large maturing shade tree per 10,000 square feet of impervious cover or fraction thereof. This planting area must be located on private property and shall be in addition to any other applicable planting requirements.
 2. Internal planting requirements for parking areas. Trees must be planted so that each parking space is no more than 110 feet from a tree trunk. Seventy-five percent of the trees

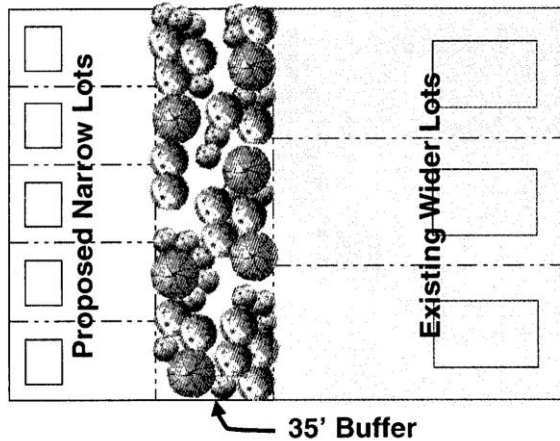
planted must be large maturing shade trees. Where constraints, such as utility lines, would interfere with the healthy growth of the tree, small maturing shade trees are used.

3. Existing trees. In meeting these internal planting requirements, credit may be given for existing trees if the following are met:
 - a. Trees larger than 2.5 inches dbh may be counted towards the internal planting requirements on a 1:1 basis. Trees larger than ten inches dbh shall receive a credit of 1.5 toward tree planting requirement.
 - b. The property owner must include a tree survey which identifies all trees of 2.5" caliper or greater that will be used to meet this requirement. Survey shall indicate species.
 - c. Only healthy trees and those that have been protected during the entire development period, beginning prior to the commencement of site work and continuing through to issuance of the certificate of occupancy in accordance with approved tree protection techniques, may satisfy these tree planting requirements. If the minimum protection standards are not met, or if trees are observed by the town to be injured or threatened, they may be deemed ineligible for meeting these requirements.

K. *Buffers and project edge compatibility.*

1. Areas exempt from requirement to provide buffer.
 - a. Buffers are not required between uses wholly contained within the project area or abutting nonresidential areas where buffers are not already required by the Ordinance.
 - b. Project edge compatibility is required along project edges to provide a suitable transition between the proposed development and adjacent residential development. All edges shall be developed or otherwise treated in a manner that is compatible with adjacent land uses.
2. Buffer required. A landscaped buffer shall only be required along all project edges abutting existing residential development excluding road frontage, and shall be measured perpendicular to the property lines that define the project area. This buffer shall be a natural, undisturbed wooded area where possible, and shall count towards the provision of open space for the development where the buffer is not platted and made part of an individual, privately-owned lot. Where an existing natural, undisturbed wooded area does not exist, a planted buffer shall be required in conformance with the buffer standards below.
3. Buffer standards.
 - a. Minimum buffer width.
 - 1) The minimum width of the project boundary buffer shall be 25 feet where the land use is comparable to the adjacent use and the width of the project's perimeter lots adjacent to the buffer is equal to or greater than the minimum lot width of the adjoining development (or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel).
 - 2) Where narrower lot widths are provided at the project's perimeter, the minimum buffer width shall be 35 feet (see the graphic below).

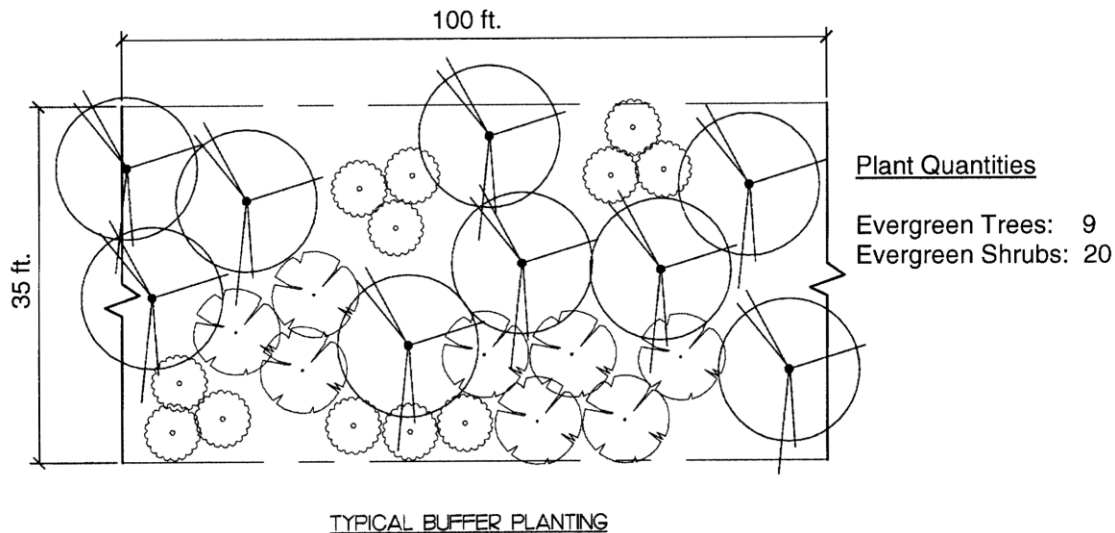
Buffer Compatibility Graphic



- 3) The required width of any project boundary buffer may be reduced by 33 percent, provided a minimum six-foot opaque wall is constructed along the project boundary.

b. Required buffer planting.

- 1) Required project boundary buffers shall incorporate existing natural vegetation to the maximum extent feasible. Prior to disturbance of a required buffer, approval shall be obtained from the town. Where existing vegetation is inadequate to meet the planting standards, additional plant material shall be required.



- 2) Credit for existing vegetation. Credit shall be given for existing vegetation within the required buffer area that meets the planting requirements above, and if the following are met:
 - a) Trees larger than 2.5 inches dbh may be counted towards the internal planting requirements on a 1:1 basis. Trees larger than ten inches dbh shall receive a credit of 1.5 toward tree planting requirement.
 - b) The property owner must include a tree survey which identifies all trees of 2.5" caliper or greater that will be used to meet this requirement. Survey shall indicate species.

- c) Only healthy trees and those that have been protected during the entire development period, beginning prior to the commencement of site work and continuing through to issuance of the certificate of occupancy in accordance with approved tree protection techniques, may satisfy these tree planting requirements. If the minimum protection standards are not met, or if trees are observed by the town to be injured or threatened, they may be deemed ineligible for meeting these requirements.
 - c. Trails within required buffers. Trails may be incorporated into required buffer areas provided adequate width (minimum 15 feet) is added to the required buffer width to accommodate both the trail and the required buffer plantings. Buffers with trails may also count toward the provision of open space for the development.
 - d. Buffer crossings and penetrations. Buffer crossings and penetrations shall be limited to the minimum width required to accommodate the roadway, trail, or other facility that is crossing the buffer. The penetration or crossing must intersect the buffer at an angle between 90 degrees and 60 degrees.
 - e. Alternative to required buffer. The applicant may submit for consideration and approval an alternative to the required buffer, provided the alternative demonstrates a positive, compatible relationship between proposed and adjacent uses.
- L. *Lighting.* All lighting shall adhere to the standards of article IV, section 6 of the ordinance.
- M. *Screening.*
1. The provisions of this section must be met at the time that land is developed or redeveloped, or if an existing structure is substantially expanded. (Exemption: expansions of less than 2,000 sf or ten percent of the total floor area, whichever is greater). A buffer required in article IV, section 2, may be used to meet the requirements of this section. The requirements of this section do not apply to lots or portions of lots, which are vacant or undeveloped.
 2. The following must be screened from abutting property and from public view from a public street:
 - a. Parking lots for more than ten automotive vehicles and parking decks, excluding new and used automotive sales lots and parking areas for detached, duplex, triplex or quadraplex dwellings on a single lot;
 - b. Dumpsters, recycling containers (except for household recycling bins or recycling containers located at recycling collection centers), or solid waste handling areas;
 - c. Service entrances or utility structures associated with a building, except in the area where such use abuts other service entrances or utility structures; and
 - d. Loading docks or spaces, except in the area where such use abuts other loading docks and spaces.
 - e. Outdoor storage of materials, stock and equipment; and
 - f. Any other uses for which screening is required under these regulations.
 3. Any screening or buffer areas used to comply with the provisions of this section or other ordinance provisions for uses other than parking decks must consist of a planted area which is at least five feet wide. This area may contain any type of screening materials sufficient to separate visually the land uses, provided such materials meet the requirements of this section. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance. The composition of the screening material and its placement on the lot will be left up to the discretion of the property owner, so long as the purpose and requirements of this section are satisfied. The following list contains specific standards to be used in installing screening:

- a. Any fence or wall used for screening shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks, poly vinyl chloride (PVC), or metal or other materials specifically designed as fencing materials or any combination thereof as may be approved by the zoning administrator. No more than 25 percent of the fence surface shall be left open and the finished side of the fence shall face the abutting property. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential uses and districts and public streets;
- b. The maximum height of a wall or fence shall be eight feet, except when located between the primary facade of a structure and the street, in which case the maximum height shall be four feet.
- c. The minimum height for screening materials will be whatever is sufficient to visually separate the uses, but not less than four feet;
- d. The height of any screening materials on a corner lot must also comply with the provisions of section "b." above;
- e. Any earth berm used to meet the requirements of this section must be a minimum of four feet with a maximum slope of 3:1. Berms in excess of six feet in height shall have a maximum slope of 4:1 as measured from the exterior property line;
- f. Shrubs used in any screening or landscaping must be evergreen, at least three feet tall with a minimum spread of two feet when planted and no further apart than five feet. They must be of a variety and adequately maintained so that an average height of five to six feet could be expected as normal growth within four years of planting. The average expected height may be reduced to four feet for screening along public streets.

5. *Procedure for approval.*

- A. *Applicability.* All proposed developments utilizing the MXU district or significant modifications to an approved MXU district shall be subject to the review and approval procedures found in this section.
- B. *Approval authority.*
 1. The planning director and planning commission shall have review and recommendation authority for the concept plan.
 2. The town council shall have final approval authority for the concept plan.
 3. The planning director shall have approval authority for a final plan/site specific plan where no significant modifications to the approved concept plan are required.
- C. *Pre-application review/sketch plan.*
 1. All applicants seeking MXU rezoning approval shall schedule a pre-application conference with the planning director to discuss the proposed development. At the pre-application conference, the planning director shall review the proposed sketch plan.
 2. At minimum, the sketch plan shall contain the following information:
 - a. Location map of the proposed site;
 - b. General description of proposed land uses, including approximate location and acreage; and
 - c. Proposed gross density of the development, and net density of individual areas or parcels within the development.
 3. The planning director shall review the sketch plan and advise the applicant on any modifications that may be required to comply with the ordinance requirements. Once the

pre-application conference is complete, the applicant shall prepare a concept plan of the entire MXU development.

D. *Concept plan.*

1. Application requirements.
 - a. The application shall contain an application for zoning map change to an MXU district, a completed concept plan (section 5.D.4), and, if applicable, development conditions (section 5.D.3).
 - b. Unless specifically modified using as a development condition, a development utilizing the MXU district shall comply with all town regulations in effect at the time of rezoning approval.
 - c. The mix of uses shall be limited to the range of uses contained in the approved MXU development conditions.
2. Review and approval procedure.
 - a. Staff review.
 - 1) Upon receipt of a completed MXU development application, the planning director shall distribute the application to the appropriate departments for review of the application.
 - 2) The planning director shall prepare a staff report based on the comments provided by planning department and other staff. The report and recommendations shall be forwarded to the planning commission for review and recommendation.
 - 3) The planning director shall provide notice as required and schedule the MXU application on the next available planning commission agenda. The planning director will then inform the applicant/agent when they will appear on the planning commission agenda for action on the MXU application.
 - b. Optional joint work session. The applicant may request a joint work session with the town council and planning commission to provide an opportunity for the applicant to present the MXU application and respond to any initial questions that council or board members may have regarding the proposed development.
 - 1) If the request is granted, the planning director shall schedule the joint work session and notify the applicant when the session will occur.
 - 2) No decision or final action may be taken at a joint work session.
 - 3) Planning commission hearing and recommendation.
 - 4) The planning director shall present the staff report to the planning commission.
 - 5) After allowing time for presentation from the applicant and public comments, the planning commission shall consider the application for conformance with the requirements of this ordinance and the review criteria in section 5.D.5.
 - 6) The planning commission shall make a recommendation to approve or deny the application.
 - c. Town council hearing and final decision.
 - 1) The staff report and planning commission recommendations shall be forwarded to the town council for review and final decision.
 - 2) The planning director shall provide notice as required and schedule the MXU application on the next available town council agenda. The planning director will

then inform the applicant/agent when they will appear on the planning commission agenda for action on the MXU application.

- 3) The planning director shall present the staff report and recommendations by the planning commission to the town council.
 - 4) After allowing time for presentation from the applicant and public comments, the town council shall consider the application for conformance with the requirements of this ordinance and the review criteria in section 5.D.5, below.
 - 5) The town council shall make a decision to approve the application, deny the application, or refer the application back to the planning commission for further consideration.
3. Development conditions. The applicant may submit conditions to be incorporated into the rezoning.
 - a. A general narrative description of the development program.
 - b. A list of any development conditions or modifications to the base standards that are being sought in conjunction with the MXU rezoning. These development conditions shall be binding upon the property unless amended by in conformance with the requirements of section 5.F.
 - c. If phasing is proposed, the applicant may provide a general breakdown showing the various phases and the estimated schedule of construction.
 4. Concept plan requirements. At minimum, the concept plan shall contain the following information in schematic form:
 - a. A title, giving the names of the developers and property owners, the date, scale, and the person or firm preparing the plan.
 - b. A vicinity map and north arrow.
 - c. The location and size of the area involved.
 - d. The current zoning of the subject property and surrounding properties.
 - e. The landowners and general land use of adjoining properties.
 - f. Location of proposed uses assigned to sub-areas, and a tabulation of total dwelling units and the gross floor area to be devoted to various uses and activities and overall densities.
 - g. Location of existing steep slopes, flood zones, wetlands, and other riparian areas, and other significant environmental features.
 - h. General layout of transportation routes including streets and major pedestrian ways.
 - i. The location of existing infrastructure (examples may include: roadways, sidewalks, and proximity of nearest water and/or sewer mains).
 - j. Conceptual location for any proposed public uses including schools, parks, fire and medical emergency services, etc.
 5. Review criteria. In determining whether to approve, approve with conditions or deny a MXU zoning map amendment, the applicable review bodies shall consider the following criteria:
 - a. The development is in conformity with the comprehensive plan and the purpose of the MXU district, and/or the development is in harmony with the character of the surrounding area.
 - b. There is an orderly and creative arrangement of all land uses with respect to each other, the entire development, and the surrounding development.

- c. The development is staged in a manner which can be accommodated by the timely provision of public utilities, facilities and services.

E. *Final plan or site specific plan.*

1. Phasing. The MXU development may be completed at once or in phases. If the development is to be completed at once, the applicant shall prepare and submit a final plan. If the development is to be completed in phases, the applicant shall prepare and submit a site specific plan prior to construction of each phase of the project. In either case, the final plan/site specific plan shall contain the elements required in section 4, final plan/site specific plan requirements, and conform to the approved concept plan.
2. Planning director review and approval.
 - a. The planning director shall distribute the final plan/site specific plan application to the appropriate departments for review to ensure that all required elements are met.
 - b. Once the final plan/site specific plans have been received and reviewed by the appropriate departments and the applicant has met all of the required elements of this ordinance, any other applicable regulations, and the adopted concept plan and development conditions, the planning director shall issue a final approval of the final plan/site specific plan so that the applicant or owner may begin the process of having the proposed site plan recorded.
 - c. If any modifications are made to the final plan/site specific plan, the planning director will follow the specific procedure specified in section F, amendments to concept plan and/or site specific plan.
3. Traffic impact analysis. A traffic impact analysis shall be required prior to the approval of any final plan or site specific plan. The analysis must be prepared by a professional engineer with expertise in the preparation of traffic impact analyses and must be submitted in a form acceptable to the town.
4. Final plan/site specific plan requirements. The final plan/site specific plans must contain or provide evidence of the following information:
 - a. A title, giving the names of the developers and property owners, the date, scale, and the person or firm preparing the plan.
 - b. A vicinity map and north arrow.
 - c. Scale, date, and legal description of the proposed site.
 - d. Copy of the approved concept plan and development conditions, and proposed modifications (if any).
 - e. Streets layout showing proposed rights-of-way, centerlines, cross section, and type and size of streets and sidewalks.
 - f. Any land dedicated or to be dedicated to and accepted by the town for the construction of public facilities (i.e., schools, parks, public safety facilities, etc.).
 - g. Location and layout of residential lots.
 - h. Location and use of existing and proposed non-residential or mixed use structures.
 - i. Site data breakdowns (for example: total square footage of proposed buildings, floor area ratio, total number and density of residential units, etc.).
 - j. Location and dimensions of proposed boundaries, and easements,
 - k. Location of open space and recreational areas, amenities, etc.
 - l. Location and dimensions of any buffers to be included in the project.
 - m. Evidence of all federal and state approvals including approved wetlands delineation.

- n. Conceptual utility and stormwater management plan(s).
- F. *Amendments to concept plans and/or final plans/site specific plans.* Any and all amendments to the concept plan and/or final/site specific plans for the MXU shall be subject to the following review procedures:
 - 1. The planning director shall have the authority to approve:
 - a. Changes which result in a decrease in assigned density for a specific parcel, either residential or non-residential.
 - b. Change in land use designation from multi-family to single-family or a change from any other use to open space/passive recreation.
 - c. Change of land use in conformance with a use conversion schedule approved with the development agreement.
 - d. Change in infrastructure features (i.e., roads/access, sewer, water, storm drainage) of the MXU area which are clearly beneficial to the occupants of the MXU area and will have no impact on adjoining or off-site properties.
 - e. All other changes shall be considered as a new application in conformance with the requirements of this section.
 - 2. All other changes shall be processed as a new application.

6. *Definitions.*

Abutting: Having common property boundary or lot line that are not separated by a street, alley, or other vehicular right-of-way such as a railroad.

Accessory structure or use: A use or above-ground structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.

Adjoining: See "abutting."

Applicant: Any person or his/her duly authorized representative who submits an application as defined herein.

Average finished grade: The ground level adjoining a building or structure at all exterior walls.

Contiguous property: Property bordering, adjoining, or meeting the boundary, border, or surface.

Dedication: The deliberate appropriation of property by its owner for general public use.

• *Commentary: For the purposes of this ordinance, land can be dedicated through one of the following ways:*

- a) *Covenants providing for mandatory membership in the association and setting forth the owner's rights, interests, and privileges in the association and the common land, must be included in the deed for each lot or unit;*
- b) *The property owners' association shall have the responsibility of maintaining the open space and operating and maintaining recreational facilities;*
- c) *The association shall have the authority to levy charges against all property owners to defray the expenses connected with the maintenance of open space and recreational facilities;*
- d) *The applicant shall maintain control of dedicated open land and be responsible for its maintenance until development sufficient to support the association has taken place.*

Developer: A person who undertakes land disturbance activities.

Encroachment: A building—or some portion of it—a wall or fence for instance that extends beyond the land of the owner and illegally intrudes on land of an adjoining owner or a street or alley.

Home occupation: A business, profession, occupation, or trade which is conducted within a residential building or accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building.

Impervious surface: A surface composed of any material that impedes or prevents natural infiltration of water into the soil.

Lots: Land bounded by lines legally established for the purpose of property division. As used in this ordinance, unless the context indicates otherwise, the term refers to a zoning lot.

Principal structure: The structure in which the principal use of a property is conducted. This shall include any buildings which are attached to the principal structure by a covered structure.

Principal use: The primary or main use of land or structures, as distinguished from a secondary or accessory use.

Project edge: The edge of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations.

(Ord. of 2-12-07; Ord. No. 2013-33, § II, 12-9-13)

EXHIBIT D

Property Description

PARCEL #1 (Parcels A, B and C on Pittman Survey)

Being all that piece, parcel, or tract of land, located in Fort Mill Township, County of York, South Carolina, also known as York County tax parcels 661-00-00-002, 708-00-00-017, 708-00-00-018, and Town of Fort Mill tax parcel 020-06-01-050, being more particularly described to wit,

Beginning a concrete SCDOT right of way marker on the Northeastern side of the Fort Mill Parkway (S-1719) being S 72°50'06" E 4322.82 feet from South Carolina Geodetic Grid Monument "Joey" positioned at N 1151663.8117744, E 2007057.8323938 located at the junction overpass of (Sutton Road) SR 49 and I77, thence along the eastern right of way line of US 21 Business (Spratt Street) N 56°17'17" E 72.84 feet; thence continuing with said right of way N 73°06'08" E 255.50 feet to a point in the line of Jones and Mullis; thence with said line S 48°38'17" E 189.83 feet to a point; thence N 72°46'02" E 273.13 feet to a point; thence with said line S 17°20'25" E 53.04 feet to a point; thence S 16°52'02" E 19.99 feet to a point in the center of a branch; thence with said branch N 48°15'01" E 10.60 feet to a point; thence N 69°58'37" E 114.01 feet to a point; thence S 71°35'22" E 29.75 feet to a point; thence N 42°11'47" E 40.01 feet to a point; thence leaving said branch N 24°31'34" W 32.34 feet to a point; thence N 24°41'00" W 209.68 feet to a point in the eastern right of way line of US 21 Business; thence with said line a curve turning to the left with an arc length of 220.55', with a radius of 553.00', with a chord bearing of N 47°20'41" E, with a chord length of 219.09', thence N 36°49'02" E 32.42 feet to a point; thence N 34°53'41" E 334.89 feet to a point; thence N 37°23'31" E 1119.98 feet to a point; thence S 35°46'57" E 20.97 feet to a point; thence N 43°25'30" E 74.32 feet to a point; thence N 35°46'57" W 29.13 feet to a point; thence N 37°23'29" E 198.66 feet to a point; thence with a curve turning to the right with an arc length of 374.68', with a radius of 1367.76', with a chord bearing of N 45°09'10" E, with a chord length of 373.51', thence with a compound curve turning to the right with an arc length of 291.02', with a radius of 1038.13', with a chord bearing of N 59°02'51" E, with a chord length of 290.07' to a point in the line of Hardwick, thence with said line S 76°43'00" E 262.16 feet to a point; thence S 67°03'41" E 6.55 feet to a point in the line of Peay; thence with said line S 71°15'48" E 513.34 feet to a point; thence S 70°21'37" E 19.47 feet to a point in the center of Brickyard Road (S-329); thence with the center of said road S 24°20'25" W 110.83 feet to a point; thence S 22°23'21" W 109.01 feet to a point in the line of Richardson ; thence S 75°18'24" E 217.23 feet to a point; thence N 25°06'48" E 90.09 feet to a point in the line of Hartman; thence N 24°00'50" E 95.64 feet to a point in the line of Moore; thence N 28°54'39" E 96.26 feet to a point in the line of Robbins; thence N 23°27'53" E 101.66 feet to a point in the line of Helms; thence N 30°03'46" E 77.89 feet to a point in the line of Knight; thence N 28°24'11" E 105.00 feet to a point in the line of Brettman; thence N 41°10'44" E 85.19 feet to a point in the line of Anthony; thence N 84°00'00" E 79.26 feet to a point in the line of Archie; thence N 77°16'23" E 79.82 feet to a point in the line of Rojas and Wells; thence with the line of Wells S 15°18'06" E 262.62 feet to a point; thence N 74°25'13" E 214.31 feet to a point; thence N 12°04'38" W 157.91 feet to a point in the line of Powerhouse Properties, LLC; thence N 78°31'16" E 200.05 feet to a point; thence N 12°13'30" W 282.13 feet to a point on the

southern right of way of Kanawha Street (S-265); thence with said right of way N 76°18'37" E 744.96 feet to a point in the line of Ray; thence with said line S 18°31'23" E 180.00 feet to a point in the line of Duke Power Company; thence with said line N 77°56'23" W 73.74 feet to a point; thence S 12°03'37" W 50.00 feet to a point; thence S 77°56'23" E 100.00 feet to a point on the western right of way of the Norfolk and Southern Railway; thence with said line N 12°03'37" E 50.00 feet to a point in the line of Ray; thence S 77°56'23" E 65.10 feet to a point in the center of the Norfolk and Southern Railway; thence with said line S 14°49'20" W 191.48 feet to a point; thence S 21°53'15" W 199.07 feet to a point; thence leaving the said line of Nassri; thence with said line S 44°57'29" E 687.35 feet to a point in the line of Benton and McCoy; thence S 07°05'29" W 74.79 feet to a point in the line of Hicks; thence S 15°34'02" W 1222.03 feet to a point in the line of William White; thence S 37°01'52" W 516.33 feet to a point; thence S 37°04'35" W 166.97 feet to a point in the line of Roxie White; thence S 09°51'28" W 121.22 feet to a point in the line of Massey; thence S 09°53'09" W 128.31 feet to a point in the line of Eliza White; thence S 09°56'19" W 62.78 feet to a point in the line of Sallie White; thence S 09°54'23" W 445.09 feet to a point in the line of Billie Burris; thence S 09°53'32" W 516.74 feet to a point in the line of Blackwell; thence S 09°54'42" W 482.85 feet to a point in the line of York County Board of Disabilities; thence S 09°54'01" W 85.65 feet to a point; thence S 37°41'12" W 325.86 feet to a point in the line of Building Technology Services, Inc; thence S 37°44'59" W 243.76 feet to a point in the center of the Norfolk and Southern Railway; thence S 37°44'59" W 78.07 feet to a point on the western right of way of said railway, the center of old Brickyard Road and the line of Jerusalem Baptist Church; thence with the center of said road and said line N 12°58'46" W 365.05 feet to a point; thence leaving said road S 77°16'53" W 32.24 feet to a point on the right of way of new Brickyard Road (S-329); thence with said right of way N 11°16'13" W 396.24 feet to a point on the western right of way of Brickyard Road; thence with said right of way S 78°13'14" W 22.34 feet to a point; thence S 78°13'13" W 25.88 feet to a point; thence with a curve turning to the right with an arc length of 361.83', with a radius of 461.45', with a chord bearing of S 10°43'11" W, with a chord length of 352.64', thence N 56°26'58" W 14.99 feet to a point; thence with a curve turning to the right with an arc length of 128.33', with a radius of 403.36', with a chord bearing of S 41°37'49" W, with a chord length of 127.79', thence with a compound curve turning to the right with an arc length of 128.39', with a radius of 510.07', with a chord bearing of S 58°03'20" W, with a chord length of 128.05'; thence S 67°14'33" W 34.13 feet to a point on the eastern right of way of the Fort Mill Parkway (S-1719); thence with said right of way N 22°00'24" W 356.13 feet to a point; thence S 66°35'15" W 9.93 feet to a point; thence with a curve turning to the left with an arc length of 1193.25', with a radius of 1137.21', with a chord bearing of N 52°15'30" W, with a chord length of 1139.25'; thence N 82°21'23" W 1662.96 feet to a point; thence with a curve turning to the right with an arc length of 1082.34', with a radius of 965.00', with a chord bearing of N 50°13'30" W, with a chord length of 1026.49'; thence N 18°13'00" W 163.23 feet to the point of beginning, having an area of 14089468.32 square feet, 323.450 acres as per survey by Pittman Professional Land Surveying dated May 7, 2015.

LESS AND EXCEPT FROM PARCEL 1 the following two tracts:

- (a) Tract C2, a portion of York County tax parcel 708-00-00-018 deed 1/3 interest to John M Spratt per Deed Book 1715 page 123. Being all that piece, parcel, or tract of land, located in Fort Mill Township, County of York, South Carolina, more particularly described as being located, beginning a concrete SCDOT right of way marker on the Northeastern

side of the Fort Mill Parkway (S-1719) being S 72°50'06" E 4322.82 feet from South Carolina Geodetic Grid Monument "Joey" positioned at N 1151663.8117744, E 2007057.8323938 located at the junction overpass of (Sutton Road) SR 49 and I77, thence with the northern right of way of the Fort Mill Parkway S 18°13'00" E 163.23 feet to a point; thence with a curve turning to the left with an arc length of 1082.19', with a radius of 962.29', with a chord bearing of S 50°15'52" E, with a chord length of 1026.05'; thence S 82°19'40" E 1662.77 feet to a point; thence leaving said right of way N 08°43'27" E 516.61 feet to point in the center of the old Nations Ford Road (unimproved) being the point of beginning; thence N 43°49'38" W 198.00 feet to point; thence N 60°40'22" E 200.00 feet to point; S 57°49'38" E 210.00 feet to point; S 59°02'26" W 250.73 feet to the point of beginning, having an area of 0.98 acres as per survey by Pittman Professional Land Surveying dated May 7, 2015.

- (b) Being all that piece, parcel, or tract of land, located in Fort Mill Township, County of York, South Carolina, also known as York County tax parcel 708-00-00-045 being more particularly described to wit,

Beginning at the terminus of the southeastern right of way line of Brickyard Road and the eastern right of way of Brickyard Road (S-329); thence S 77°16'53" E 32.24 feet to a point in the center of Old Brickyard road; thence with said road S 12°58'46" E 329.38 feet to the point of beginning; thence continuing with the center of Old Brickyard Road S 13°10'41" E 38.19 feet to a point; thence S 12°54'52" E 171.81 feet to a point; thence S 75°02'16" W 210.00 feet to a point; thence N 12°57'44" W 210.00 feet to a point; thence N 75°02'16" E 210.00 feet to the point of beginning, having an area of 1.00 acres as per survey by Pittman Professional Land Surveying dated May 7, 2015.

PARCEL 2 (Tract D on Pittman survey)

Being all that piece, parcel, or tract of land, located in Fort Mill Township, County of York, South Carolina, also known as York County tax parcel 708-00-00-017 being more particularly described to wit,

Beginning at the intersection of the north eastern right of way of the Fort Mill Parkway (S-1719) and the southern right of way of Brickyard Road (S-329); thence with the right of way of Brickyard road N 66°21'58" E 42.70 feet to a point; thence with a curve turning to the left with an arc length of 385.11', with a radius of 574.40', with a chord bearing of N 46°59'00" E, with a chord length of 377.94'; thence S 62°44'30" E 54.07 feet to a point; thence leaving said right of way N 77°16'53" E 32.24 feet to the center of Old Brickyard Road thence with Old Brickyard Road S 12°58'02" E 975.72 feet to a point in the railroad right of way; thence S 11°42'26" E 320.83 feet to a point in the railroad right of way on and on the northeast right of way of the Fort Mill Parkway; thence said right of way N 39°18'14" W 308.60 feet to a point; thence S 50°41'46" W 20.00 feet to a point; thence with a curve turning to the right with an arc length of 891.53', with a radius of 2803.06', with a chord bearing of N 31°09'07" W, with a chord length of 887.78'; thence N 22°11'25" W 23.42 feet to the point of beginning, 7.833 acres as per survey by Pittman Professional Land Surveying dated May 7, 2015.

PARCEL 3 (Tract E on Pittman survey)

Being all that piece, parcel, or tract of land, located in Fort Mill Township, County of York, South Carolina, also known as York County tax parcels 661-00-00-002, 708-00-00-017, 708-00-00-018, and 661-00-00-014, being more particularly described to wit,

Beginning a concrete SCDOT right of way marker on the eastern right of way line of US 21 Business (Spratt Street) being S 71°31'00" E 4165.47 feet from South Carolina Geodetic Grid Monument "Joey" positioned at N 1151663.8117744, E 2007057.8323938 located at the junction overpass of (Sutton Road) SR 49 and I77, thence along the eastern right of way line of US 21 Business (Spratt Street) thence with the southwestern right of way of the Fort Mill Parkway S 63°30'54" E 89.92 feet; thence S 18°22'05" E 113.19 feet to a point; thence with a curve turning to the left with an arc length of 1216.94', with a radius of 1085.19', with a chord bearing of S 50°14'11" E, with a chord length of 1154.17', thence S 82°21'23" E 1662.96 feet to a point; thence with a curve turning to the right with an arc length of 1353.42', with a radius of 1015.00', with a chord bearing of S 44°09'24" E, with a chord length of 1255.36', thence S 05°57'25" E 523.72 feet to a point; thence with a curve turning to the left with an arc length of 115.31', with a radius of 1085.00', with a chord bearing of S 09°00'06" E, with a chord length of 115.25', thence S 74°33'33" W 12.02 feet to a point; thence with a curve turning to the left with an arc length of 226.36', with a radius of 1237.22', with a chord bearing of S 17°43'45" E, with a chord length of 226.04', to a point in the line of Rehold Fort Mill; thence with said line S 66°10'12" W 89.26 feet to a point; thence S 19°11'34" W 444.26 feet to a point; thence S 34°47'22" W 272.68 feet to a point in the line of Clear Springs Bradley Park LLC; thence S 89°04'42" W 183.41 feet to a point; thence S 34°55'52" W 1142.39 feet to a point; thence S 56°36'33" W 100.02 feet to a point; thence N 85°45'02" W 32.65 feet to a point; thence N 58°55'50" W 410.52 feet to a point; thence S 26°56'50" W 1110.85 feet to a point; thence N 69°03'02" W 1076.88 feet to a point; thence S 31°04'10" W 573.77 feet to a point at the high water mark of the Catawba River; thence with said high water mark N 31°18'10" W 88.61 feet to a point; thence N 27°03'20" W 33.26 feet to a point; thence N 32°49'29" W 52.77 feet to a point; thence N 14°53'42" W 63.77 feet to a point; thence N 20°42'09" W 80.41 feet to a point; thence N 53°15'58" E 14.33 feet to a point; thence N 15°25'58" W 80.38 feet to a point; thence N 19°35'34" W 92.02 feet to a point; thence N 33°22'57" W 41.85 feet to a point; thence N 33°17'58" W 80.27 feet to a point; thence N 24°36'41" W 189.06 feet to a point in the old Dye Branch channel; thence N 56°01'13" W 72.48 feet to a point on the high water mark; thence with said high water mark N 36°30'35" W 77.27 feet to a point; thence N 41°33'08" W 165.23 feet to a point; thence N 25°46'29" W 162.21 feet to a point; thence N 43°13'27" W 194.66 feet to a point; thence N 56°16'43" W 208.24 feet to a point; thence N 61°15'02" W 146.73 feet to a point; thence N 65°51'20" W 168.17 feet to a point; thence N 60°49'55" W 108.98 feet to a point; thence N 55°19'52" W 130.76 feet to a point; thence N 49°49'53" W 108.98 feet to a point; thence N 43°13'45" W 28.55 feet to a point; thence N 75°15'23" E 188.27 feet to a point in Dye Branch; thence with said branch N 74°16'07" E 262.68 feet to a point; thence N 85°14'11" E 171.16 feet to a point; thence N 08°31'31" E 161.28 feet to a point; thence N 03°16'49" W 102.05 feet to a point; thence N 55°18'02" W 78.31 feet to a point; thence S 65°12'51" W 83.51 feet to a point; thence N 74°44'52" W 82.51 feet to a point; thence N 47°20'39" W 34.29 feet to a point; thence N 40°01'52" W

51.73 feet to a point; thence N 46°51'03" W 29.51 feet to a point; thence N 43°51'31" W 127.84 feet to a point; thence N 61°43'56" W 70.97 feet to a point; thence N 24°49'28" W 29.40 feet to a point; thence N 09°53'09" E 15.93 feet to a point; thence N 00°57'58" W 39.64 feet to a point; thence N 08°34'15" W 33.14 feet to a point; thence N 29°12'31" W 27.71 feet to a point; thence N 53°46'54" W 21.73 feet to a point; thence N 83°52'30" W 75.09 feet to a point; thence S 69°11'00" W 57.18 feet to a point; thence N 50°46'04" W 15.95 feet to a point; thence N 01°28'48" E 72.26 feet to a point; thence N 07°55'12" E 224.33 feet to a point; thence N 16°14'38" E 82.05 feet to a point; thence N 02°22'06" E 76.83 feet to a point; thence N 25°04'01" W 30.67 feet to a point; thence N 16°07'01" E 81.23 feet to a point; thence N 19°40'48" W 76.97 feet to a point; thence N 09°26'58" E 20.88 feet to a point; thence N 73°09'57" E 47.25 feet to a point; thence N 07°08'14" W 116.24 feet to a point; thence N 32°11'37" W 66.93 feet to a point; thence N 28°50'19" E 64.72 feet to a point; thence N 02°19'32" E 119.51 feet to a point; thence N 10°42'18" E 56.83 feet to a point; thence N 05°30'27" W 53.64 feet to a point; thence N 04°38'34" E 58.52 feet to a point; thence N 20°26'53" W 67.61 feet to a point; thence N 19°30'38" E 95.42 feet to a point; thence N 40°30'09" W 59.95 feet to a point; thence N 68°25'43" E 53.26 feet to a point; thence N 00°06'45" W 135.78 feet to a point; thence N 28°37'42" E 138.43 feet to a point; thence N 26°34'27" E 77.77 feet to a point in the line of the Town of Fort Mill; thence with said line S 72°41'25" E 940.31 feet to a point; thence N 17°16'46" E 900.00 feet to a point; thence N 72°43'14" W 575.23 feet to a point on the right of way line of and access easement; thence crossing said easement S 70°17'07" W 66.44 feet to a point; thence S 70°10'37" W 370.55 feet to a point in the center of Dye Branch; thence with Dye Branch N 22°41'51" W 3.67 feet to a point; thence N 54°53'30" E 55.23 feet to a point; thence N 04°50'48" E 103.22 feet to a point; thence N 16°18'50" E 33.32 feet to a point on the southeastern right of way line of US 21 Business; thence with said right of way with a curve turning to the right with an arc length of 280.00', with a radius of 1984.94', with a chord bearing of N 57°53'57" E, with a chord length of 279.77', thence N 37°05'03" E 86.39 feet to a point; thence N 65°52'30" E 122.65 feet to a point; thence N 72°45'33" E 501.35 feet to the point of beginning having an area of 382.04 acres as per survey by Pittman Professional Land Surveying dated May 7, 2015.

PARCEL 4 (Parcel F on Pittman Survey)

Being all that piece, parcel, or tract of land, located in Fort Mill Township, County of York, South Carolina, also known as York County tax parcel 708-00-00-017 being more particularly described to wit,

Beginning at the intersection of the north southwestern right of way of the Fort Mill Parkway (S-1719) and the northeastern right of way of and access road to Rehold Fort Mill; thence with the southwestern right of way of the Fort Mill Parkway N 39°01'46" W 344.06 feet to a point; thence N 50°44'38" E 30.00 feet to a point; thence N 37°47'47" W 151.80 feet to a point; thence S 55°43'47" W 51.63 feet to a point; thence S 35°58'12" E 99.89 feet to a point; thence with a curve turning to the right with an arc length of 142.67', with a radius of 202.81', with a chord bearing of S 15°49'03" E, with a chord length of 139.75'; thence with a reverse curve turning to the left with an arc length of 284.20', with a radius of 965.00', with a chord

bearing of S 55°08'39" E, with a chord length of 283.17 feet to the point of beginning 0.57 acres as per survey by Pittman Professional Land Surveying dated May 7, 2015.

PARCEL 5 (Parcel G on Pittman survey)

Being all that piece, parcel, or tract of land, located in Fort Mill Township, County of York, South Carolina, also known as Fort Mill tax parcels 020-01-22-012, being more particularly described to wit,

Beginning at the intersection of the eastern right of way of US 21 Business (Spratt Street) and the southern right of way of Leonidas Street thence with the southern right of way of the Leonidas Street; thence S 45°11'18" E 252.07 feet to a point in the line of Walker; thence with said line S 49°45'50" W 105.46 feet to a point; thence S 23°01'22" E 118.09 feet to a point in the line of Maples; thence S 45°24'11" E 49.85 feet to a point in the line of McLoughin; thence S 45°37'30" E 50.50 feet to a point in the line of Maher; thence S 45°24'45" E 79.32 feet to a point in the line of Wooten; thence S 44°31'38" E 80.39 feet to a point in the line of Hussey; thence with said line N 44°15'17" E 14.94 feet to a point; thence S 47°47'21" E 13.92 feet to a point; thence S 29°48'31" E 108.44 feet to a point on the northern right of way of Kanawha Street; thence with said right of way S 74°22'11" W 100.04 feet to a point; thence S 77°49'23" W 199.82 feet to a point; thence S 84°45'09" W 181.54 feet to a point in the line of Crouch; thence N 29°20'04" E 74.92 feet to a point; thence S 60°27'50" E 4.99 feet to a point; thence N 29°16'56" E 88.89 feet to a point in the line of Durkee; thence N 28°10'17" E 86.50 feet to a point in the line of Seger; thence N 55°56'32" E 75.24 feet to a point; thence N 17°05'57" W 203.13 feet to a point; thence N 75°43'10" W 93.76 feet to a point on the eastern right of way of US 21 Business; thence with said right of way thence with a curve turning to the left with an arc length of 54.27', with a radius of 765.47', with a chord bearing of N 09°18'15" E, with a chord length of 54.25'; thence N 07°00'46" E 188.04 feet to the point of beginning, having an area of 2.74 acres.

EXHIBIT E

Development Schedule

Development shall commence within six (6) months following the transfer by the Initial Developer of its Development Rights and Obligations to a third party Developer. One-quarter (1/4) of the Project shall be completed within the first five (5) years of the Term of this Agreement. Thereafter, one-third (1/3) of the remainder of the Project shall be completed at the end of each successive five (5) year period, with total completion of the Project to occur within twenty (20) years of the date that this Agreement is signed by the Town.